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*Counsel for Defendants*

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IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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EPILEPSY ASSOCIATION OF UTAH, a  
Utah non-profit corporation; CHRISTINE  
STENQUIST; DOUGLAS ARTHUR RICE;  
TRUCE, a Utah non-profit corporation;  
NATHAN KIZERIAN; SHALYCE  
KIZERIAN; ANDREW TALBOT, M.D.,

Plaintiffs,

v.

GARY HERBERT, Governor of the State  
of Utah, in his official capacity; JOSEPH  
K. MINER, M.D., MSPH, Executive  
Director, Utah Department of Health, in  
his official capacity,

Defendants.

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**SUGGESTION OF MOOTNESS**

Case No. 2:19-cv-00360-DBP

Magistrate Judge Dustin B. Pead

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## INTRODUCTION

Defendants removed this case from state court after Plaintiffs amended their complaint to add a new claim (the “federal claim”) that raised, for the first time, questions of federal law. Plaintiffs’ federal claim targets provisions (“Challenged Provisions”) of Utah’s medical marijuana law ([H.B. 3001](#)) that would, if implemented, require a “state central fill” and local health departments to distribute medical marijuana. Plaintiffs allege the Challenged Provisions are preempted by federal law.

But, during a special legislative session last week, the Utah Legislature repealed the Challenged Provisions. The Governor signed the amended law yesterday. The repeal of the Challenged Provisions moots Plaintiffs’ only federal claim. With only a state-law claim remaining, the Court may now properly remand the case to allow this claim to be resolved in state court.

For the same reasons, Defendants’ pending motion to dismiss and Plaintiffs’ pending motion to remand are also moot. The only remaining matter requiring resolution by the Court is Plaintiffs’ pending and disputed motion for attorney fees.

## ARGUMENT

### I. Recent Amendments to Utah's Medical Marijuana Law Have Mooted Plaintiffs' Second Claim for Relief

Based on recent amendments to H.B. 3001, Plaintiffs' sole federal claim, found in their second claim for relief, is now moot. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 68, 117 S. Ct. 1055, 137 L. Ed. 2d 170 (1997) ("It is the duty of counsel to bring to the federal tribunal's attention, *"without delay,"* facts that may raise a question of mootness.").

In the second claim for relief, entitled "Facial Unconstitutionality and Preemption of H.B. 3001 Because it Directly Conflicts with Federal Law," Plaintiffs challenge the provisions ("Challenged Provisions") of H.B. 3001 that require (1) "the Utah Health Department to create and operate a 'state central fill' to arrange for the purchase and distribution of marijuana," and (2) local health departments "to distribute state central fill shipments" and "to participate in arranging for the purchase, distribution, transportation, storage, and sale of" marijuana. (See First Amendment Complaint ("FAC"), [Doc. 9-6](#), ¶¶ 53-55).

Plaintiffs allege the Challenged Provisions violate, and are preempted by, the federal Controlled Substances Act ("CSA") and Drug-Free Workplace Act. (*Id.*)

The second claim for relief has been mooted by a legislative change to H.B. 3001. Specifically, during a special session on September 16, 2019, the Utah Legislature enacted Senate Bill 1002 ("[S.B. 1002](#)"), which repealed the

Challenged Provisions from H.B. 3001. (See, Exhibit A, lines 13-14, 266-271, 1149-55, 2620-2664, 2548-2554, 2978-2986, 3009-3026, *available at* <https://le.utah.gov/~2019s1/bills/static/SB1002.html>). S.B. 1002 was signed by Governor Herbert on September 23, 2019, (*id.*) and went into effect on that same day. (*Id.*, lines 3770-71).

The repeal of the Challenged Provisions moots Plaintiffs' second claim for relief. See *Rio Grande Silvery Minnow v. Bureau of Reclamation*, 601 F.3d 1096, 1116–17 (10th Cir. 2010) (stating that amendment or repeal of a statute moots a case challenging the statute except where the “legislature has openly expressed its intent to reenact the challenged law.”). The Utah Legislature has not expressed an intent to reenact the Challenged Provisions.

## **II. With the Sole Federal Claim Resolved, the Court may Properly Remand the Case**

With the second claim for relief now resolved, only the first claim for relief remains. The first claim for relief arises under state law, specifically *Utah Const. art. VI, § 1*. (FAC, pp. 40-41). Thus, the Court now has to discretion to remand the case to allow the remaining state constitutional claim to be resolved by state court. *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350–53, 357, 108 S. Ct. 614, 98 L. Ed. 2d 720 (1988) (holding a district court has discretion to remand a removed case to state court when all federal-law claims have “dropped out of the action” and only pendent state-law claims remain where doing so would “best

promote the values of economy, convenience, fairness, and comity.”); *Smith v. City of Enid By & Through Enid City Comm'n*, 149 F.3d 1151, 1156 (10th Cir. 1998) (“When all federal claims have been dismissed, the court may, and usually should, decline to exercise jurisdiction over any remaining state claims.”); cf. *Dahn v. United States*, 127 F.3d 1249, 1255 (10th Cir. 1997) (“[Plaintiff] insists that the district court should have remanded his removed action back to state court at the conclusion of the proceedings. As all of the federal claims had been dismissed for lack of jurisdiction, it was within the discretion of the district court to dismiss without prejudice, rather than remand, whatever state causes of action were implicated in the pleadings.”)

The Court would properly exercise its discretion by remanding this case. Now that the sole federal claim is resolved as moot, principles of economy, convenience and comity favor remanding to case to allow the Utah state courts to resolve the remaining state constitutional claim. Utah state courts are well-equipped to resolve issues of state constitutional law. And, given the potential for an appeal, it is worth noting that the Utah Supreme Court has recently resolved another case involving a related challenge to H.B. 3001 under *Utah Const. art. VI, § 1. Grant v. Herbert*, 2019 UT 42, ¶¶ 27-29 (interpreting and applying provision of *Utah Const. art. VI, § 1*, and concluding laws passed by a two-thirds supermajority are not subject to voter referendum). This recent experience would help the Utah Supreme Court efficiently resolve any appeal in this case.

The parties' pending motions do not prevent resolving the case on mootness grounds. Although Defendants' motion to dismiss challenges the adequacy of Plaintiffs' allegations of standing, (Doc. 14), the Court may resolve this case on mootness grounds without ruling on the motion to dismiss (which is not yet fully briefed). Arizonans for Official English, 520 U.S. at 66, 71–73 (resolving case on mootness grounds, despite concerns raised over whether parties had standing).

Likewise, resolving and remanding this case based on the mootness of the federal claim should moot Plaintiffs' motion to remand. (Doc 15.). At this point, with their federal claim undeniably mooted, Plaintiffs' motion to remand, if granted, would lead to the same result as this suggestion of mootness: remand of the case with only the second claim of relief remaining.

As such, the Court may and should resolve this case as suggested herein, without ruling on Plaintiffs' motion to remand. The theory underlying Plaintiffs' motion to remand is strongly disputed by the State. (Doc. 21). Specifically, Plaintiffs' motion to remand is premised on the theory the Court should remand this case simply because Defendants filed a motion to dismiss challenging Plaintiffs' standing, without a ruling or stipulation that Plaintiffs actually lack standing. (*Id.*) Plaintiffs' theory has not been adopted by the U.S. Supreme Court, Tenth Circuit and most other courts and, in Defendants' view, is wrong on several levels. (Doc. 21).

In contrast, the premises underlying this suggestion of mootness are supported by controlling precedent. Plaintiffs' federal claim is clearly moot, and the Court has the discretion to remand the remaining state-law claim, as shown previously.

Resolving the case as suggested herein would leave only Plaintiffs' motion for attorney fees, (Doc. 15), to be resolved by the Court. That motion, which is opposed by Defendants, (Doc. 21), has been fully briefed and submitted for decision.

### **CONCLUSION**

For the foregoing reasons, the Court should dismiss Plaintiffs' second claim for relief as moot and remand the case and first claim for relief to state court.

Date this 24th day of SEPTEMBER 2019.

OFFICE OF THE UTAH ATTORNEY  
GENERAL

/s/ Andrew Dymek

DAVID N. WOLF

ANDREW DYMEK

LANCE SORENSON

Assistant Utah Attorneys General

*Counsel for Defendants*



**CERTIFICATE OF SERVICE**

I certify that on **SEPTEMBER 24, 2019**, I electronically filed the foregoing, **SUGGESTION OF MOOTNESS**, using the Court's electronic filing system and I also certify that a true and correct copy of the foregoing was sent by United States mail, postage prepaid, to the following:

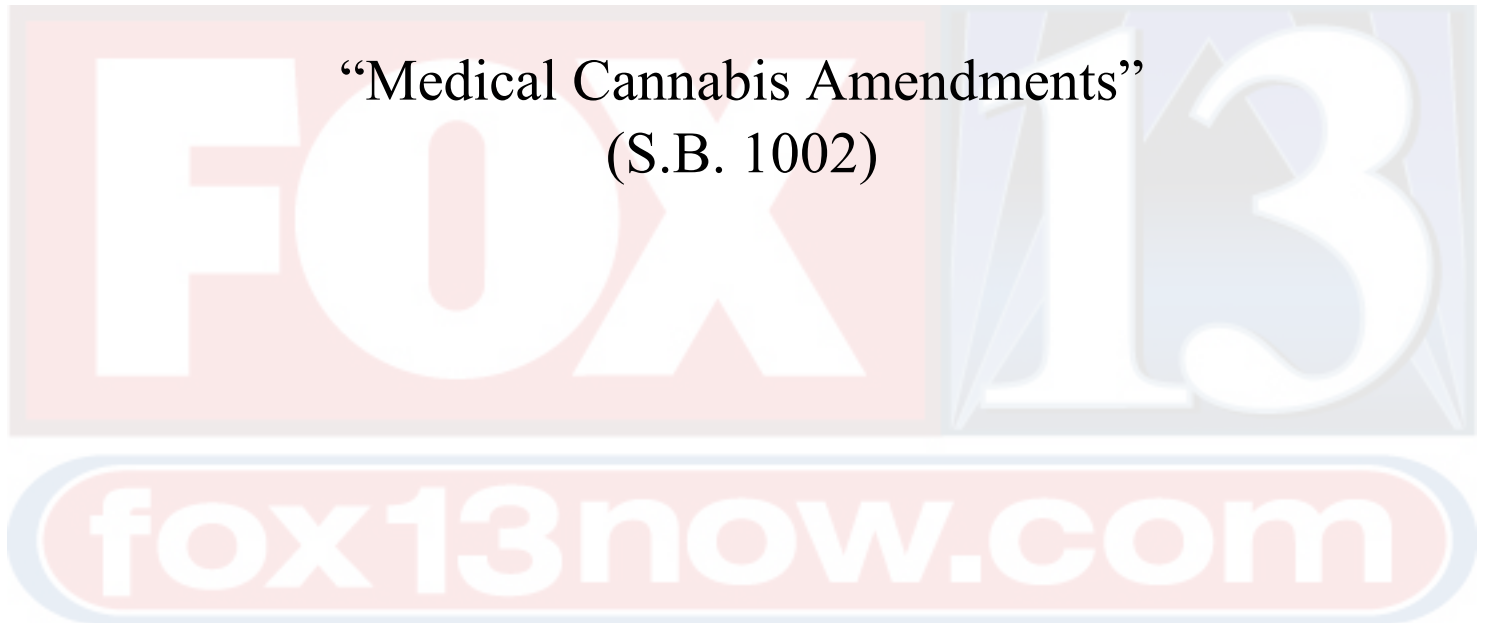
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/s/Genevieve De La Pena  
Legal Secretary



# EXHIBIT A

“Medical Cannabis Amendments”  
(S.B. 1002)



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**S.B. 1002**

**MEDICAL CANNABIS AMENDMENTS**

2019 FIRST SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor: Brad M. Daw

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**LONG TITLE**

**General Description:**

This bill amends provisions related to medical cannabis.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ repeals provisions related to the state central fill medical cannabis pharmacy and makes necessary resulting amendments;
- ▶ replaces a procurement requirement for future Department of Agriculture and Food (UDAF) licensing with a process that UDAF develops in rule;
- ▶ allows UDAF and the Department of Health (DoH) to waive certain proximity requirements in certain circumstances;
- ▶ clarifies the number of cannabis cultivation facility licenses that UDAF is required and allowed to issue;
- ▶ requires certain disclosures about adverse actions against applicants in any jurisdiction and allows UDAF and DoH to revoke licenses if those disclosures are not updated;
- ▶ prohibits UDAF and DoH from issuing certain licenses if a legislator has an ownership interest in the perspective licensee;
- ▶ allows licensed cannabis cultivation facilities to cultivate both indoors and outdoors under UDAF rules;
- ▶ exempts the following from a background check requirement:

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- 29                   • certain agents re-applying for an agent registration card; and
- 30                   • certain guardians and designated caregivers re-applying for a medical cannabis
- 31 card;
- 32               ▶ clarifies that cannabis production establishments and medical cannabis pharmacies
- 33 may use signage regardless of local prohibitions;
- 34               ▶ amends provisions regarding local government land use control, including:
- 35                   • ensuring that cannabis production establishments and medical cannabis
- 36 pharmacies are only subject to land use ordinances in effect at the time the land
- 37 use rights vest;
- 38                   • requiring an approved land use permit application within a certain time after the
- 39 issuance of a license rather than before; and
- 40                   • prohibiting certain proximity minimums;
- 41               ▶ allows UDAF to license research universities to conduct academic medical cannabis
- 42 research;
- 43               ▶ adopts a nationally recognized code regarding marijuana production into the state
- 44 fire code;
- 45               ▶ provides for electronic medical cannabis cards;
- 46               ▶ provides that use of medical cannabis may not be considered differently than lawful
- 47 use of any prescribed controlled substance in certain circumstances;
- 48               ▶ amends provisions regarding privacy in studies of cardholder data;
- 49               ▶ requires an applicant for a medical cannabis pharmacy license to describe a strategic
- 50 plan for opening, including the timing of the opening based on supply, in
- 51 consultation with UDAF, and demand, in consultation with DoH;
- 52               ▶ increases the number of licenses available for private medical cannabis pharmacies
- 53 and allows DoH to issue additional licenses in certain circumstances based on
- 54 market necessity;
- 55               ▶ allows DoH to issue medical cannabis pharmacy licenses in two phases using one

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procurement process;

- ▶ allows for certain medical practitioners to be registered as medical cannabis pharmacy agents as long as the provider is not registered as a qualified medical

provider;

- ▶ amends allowable sale and possession amount to be uniform regardless of the distance between an individual's residence and a medical cannabis pharmacy;

- ▶ directs DoH to create a state central patient portal for patient safety, education, and electronic access to home deliveries of medical cannabis shipments from home delivery medical cannabis pharmacies;

- ▶ allows DoH to designate certain private medical cannabis pharmacies as home delivery medical cannabis pharmacies that fulfill electronic orders for medical cannabis shipments:

- that medical cannabis cardholders access through the state central patient portal;and

- for which a payment provider that the Division of Finance approves, in consultation with the state treasurer, or a financial institution facilitates a financial transaction;

- ▶ broadens an existing requirement that DoH employ certain medical providers to consult with medical cannabis cardholders;

- ▶ provides for licensing of medical cannabis couriers and registration of medical cannabis courier agents to facilitate delivery of medical cannabis shipments from home delivery medical cannabis pharmacies;

- ▶ repeals Title 26, Chapter 65, Cannabidiol Product Act;

- ▶ prohibits considering, in a judicial context, lawful possession or use of medical cannabis differently from lawful possession or use of any prescribed controlled substance;

- ▶ prohibits certain conditions of probation or release or terms of certain agreements

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that require a person to abstain from medical cannabis;

- ▶ addresses a parent or guardian's use of medical cannabis in child welfare cases; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides revisor instructions.

**Utah Code Sections Affected:**

AMENDS:

**4-41a-102**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
Chapter 1

**4-41a-103**, as last amended by Laws of Utah 2019, Chapter 136

**4-41a-201**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
Chapter 1

**4-41a-204**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
Chapter 1

**4-41a-205**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
Chapter 1

**4-41a-301**, as last amended by Laws of Utah 2019, Chapter 136

**4-41a-302**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
Chapter 1

**4-41a-403**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
Chapter 1

**4-41a-404**, as last amended by Laws of Utah 2019, Chapter 341

**4-41a-406**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
Chapter 1

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110           **4-41a-501**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
111 Chapter 1  
112           **4-41a-701**, as last amended by Laws of Utah 2019, Chapter 341  
113           **15A-5-103**, as last amended by Laws of Utah 2019, Chapter 103  
114           **26-61a-102**, as last amended by Laws of Utah 2019, Chapter 341  
115           **26-61a-103**, as last amended by Laws of Utah 2019, Chapters 136 and 341  
116           **26-61a-106**, as last amended by Laws of Utah 2019, Chapters 136 and 341  
117           **26-61a-107**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
118 Chapter 1  
119           **26-61a-109**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
120 Chapter 1  
121           **26-61a-111**, as last amended by Laws of Utah 2019, Chapter 341  
122           **26-61a-201**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
123 Chapter 1  
124           **26-61a-202**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
125 Chapter 1  
126           **26-61a-203**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
127 Chapter 1  
128           **26-61a-204**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
129 Chapter 1  
130           **26-61a-301**, Utah Code Annotated 1953  
131           **26-61a-302**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
132 Chapter 1  
133           **26-61a-304**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
134 Chapter 1  
135           **26-61a-305**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
136 Chapter 1

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137        **26-61a-401**, as last amended by Laws of Utah 2019, Chapter 136  
 138        **26-61a-403**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1  
 139        **26-61a-502**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
 140 Chapter 1  
 141        **26-61a-503**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1  
 142        **26-61a-505**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
 143 Chapter 1  
 144        **26-61a-506**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
 145 Chapter 1  
 146        **26-61a-507**, as last amended by Laws of Utah 2019, Chapter 136  
 147        **26-61a-605**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1  
 148        **26-61a-606**, as last amended by Laws of Utah 2019, Chapter 136  
 149        **26-61a-607**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1  
 150        **26-61a-702**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
 151 Chapter 1  
 152        **26-61a-703**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
 153 Chapter 1  
 154        **30-3-10**, as last amended by Laws of Utah 2019, Chapters 136, 188, and 341  
 155        **58-17b-302**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1  
 156        **58-17b-310**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1  
 157        **58-17b-502**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1  
 158        **58-37-3.7**, as last amended by Laws of Utah 2019, Chapter 341  
 159        **58-37-3.8**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1  
 160        **58-37-3.9**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1  
 161        **58-67-304**, as last amended by Laws of Utah 2019, Chapter 136  
 162        **58-67-502**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1  
 163        **58-68-304**, as last amended by Laws of Utah 2019, Chapter 136



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164 **58-68-502**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

165 **59-12-104.10**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

166 **78A-6-115**, as last amended by Laws of Utah 2018, Chapter 359

167 ENACTS:

168 **4-41a-901**, Utah Code Annotated 1953

169 **4-41a-902**, Utah Code Annotated 1953

170 **4-41a-903**, Utah Code Annotated 1953

171 **10-9a-528**, Utah Code Annotated 1953

172 **17-27a-525**, Utah Code Annotated 1953

173 **26-61a-115**, Utah Code Annotated 1953

174 **78A-2-231**, Utah Code Annotated 1953

175 REPEALS AND REENACTS:

176 **26-61a-601**, as last amended by Laws of Utah 2019, Chapter 136

177 **26-61a-602**, as last amended by Laws of Utah 2019, Chapter 136

178 **26-61a-603**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

179 **26-61a-604**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

180 REPEALS:

181 **26-61a-110**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

182 **26-61a-205**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

183 **26-61a-608**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

184 **26-61a-609**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

185 **26-61a-610**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

186 **26-61a-611**, as last amended by Laws of Utah 2019, Chapter 136

187 **26-65-101**, as enacted by Laws of Utah 2018, Chapter 452

188 **26-65-102**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

189 **26-65-103**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

190 **26-65-201**, as enacted by Laws of Utah 2018, Chapter 452

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191 **26-65-202**, as enacted by Laws of Utah 2018, Chapter 452

192 **Utah Code Sections Affected by Revisor Instructions:**

193 **4-41a-201**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
 194 Chapter 1

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196 *Be it enacted by the Legislature of the state of Utah:*

197 Section 1. Section **4-41a-102** is amended to read:

198 **4-41a-102. Definitions.**

199 As used in this chapter:

200 (1) "Cannabis" means the same as that term is defined in Section **26-61a-102**.

201 (2) "Cannabis cultivation facility" means a person that:

202 (a) possesses cannabis;

203 (b) grows or intends to grow cannabis; and

204 (c) sells or intends to sell cannabis to a cannabis cultivation facility ~~[or to]~~, a cannabis  
 205 processing facility, or a medical cannabis research licensee.

206 (3) "Cannabis cultivation facility agent" means an individual who:

207 (a) is an employee of a cannabis cultivation facility; and

208 (b) holds a valid cannabis production establishment agent registration card.

209 (4) "Cannabis processing facility" means a person that:

210 (a) acquires or intends to acquire cannabis from a cannabis production establishment or  
 211 a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and  
 212 Cannabinoid Act;

213 (b) possesses cannabis with the intent to manufacture a cannabis product;

214 (c) manufactures or intends to manufacture a cannabis product from unprocessed  
 215 cannabis or a cannabis extract; and

216 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or ~~[the~~  
 217 ~~state central fill]~~ a medical cannabis [pharmacy] research licensee.

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(5) "Cannabis processing facility agent" means an individual who:

(a) is an employee of a cannabis processing facility; and

(b) holds a valid cannabis production establishment agent registration card.

(6) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(7) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(8) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(9) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(10) "Community location" means a public or private school, a licensed child-care facility or preschool, a church, a public library, a public playground, or a public park.

(11) "Department" means the Department of Agriculture and Food.

(12) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(13) "Independent cannabis testing laboratory" means a person that:

(a) conducts a chemical or other analysis of cannabis or a cannabis product; or

(b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(14) "Independent cannabis testing laboratory agent" means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

(15) "Inventory control system" means a system described in Section 4-41a-103.

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(16) "Medical cannabis" means the same as that term is defined in Section [26-61a-102](#).

(17) "Medical cannabis card" means the same as that term is defined in Section [26-61a-102](#).

(18) "Medical cannabis pharmacy" means the same as that term is defined in Section [26-61a-102](#).

(19) "Medical cannabis pharmacy agent" means the same as that term is defined in Section [26-61a-102](#).

(20) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

(21) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section [4-41a-901](#).

~~[(20)]~~ (22) "Medical cannabis treatment" means the same as that term is defined in Section [26-61a-102](#).

~~[(21)]~~ (23) "Medicinal dosage form" means the same as that term is defined in Section [26-61a-102](#).

~~[(22)]~~ (24) "Qualified medical provider" means the same as that term is defined in Section [26-61a-102](#).

~~[(23)]~~ (25) "Qualified Production Enterprise Fund" means the fund created in Section [4-41a-104](#).

~~[(24)] "State central fill agent" means the same as that term is defined in Section [26-61a-102](#).]~~

~~[(25)] "State central fill medical cannabis pharmacy" means the same as that term is defined in Section [26-61a-102](#).]~~

~~[(26)] "State central fill shipment" means the same as that term is defined in Section [26-61a-102](#).]~~

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(26) "Research university" means the same as that term is defined in Section 53B-7-702.

(27) "State electronic verification system" means the system described in Section 26-61a-103.

(28) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

(29) "Total composite tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

Section 2. Section 4-41a-103 is amended to read:

**4-41a-103. Inventory control system.**

(1) Each cannabis production establishment[;] and each medical cannabis pharmacy[; ~~and the state central fill medical cannabis pharmacy~~] shall maintain an inventory control system that meets the requirements of this section.

(2) A cannabis production establishment[;] and a medical cannabis pharmacy[; ~~and the state central fill medical cannabis pharmacy~~] shall ensure that the inventory control system maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

(b) maintains in real time a record of the amount of cannabis and cannabis products in the possession of the establishment or pharmacy;

(c) includes a video recording system that:

(i) tracks all handling and processing of cannabis or a cannabis product in the establishment or pharmacy;

(ii) is tamper proof; and

(iii) stores a video record for at least 45 days; and

(d) preserves compatibility with the state electronic verification system described in

**S.B. 1002****Enrolled Copy**

299 Section ~~26-61a-103~~.

300 (3) A cannabis production establishment~~;~~ and a medical cannabis pharmacy~~;~~ and the  
 301 ~~state central fill medical cannabis pharmacy]~~ shall allow the department or the Department of  
 302 Health access to the cannabis production establishment's~~;~~ or the medical cannabis  
 303 pharmacy's~~;~~ or state central fill medical cannabis pharmacy's] inventory control system at any  
 304 time.

305 (4) The department may establish compatibility standards for an inventory control  
 306 system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
 307 Rulemaking Act.

308 (5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah  
 309 Administrative Rulemaking Act, establishing requirements for aggregate or batch records  
 310 regarding the planting and propagation of cannabis before being tracked in an inventory control  
 311 system described in this section.

312 (b) The department shall ensure that the rules described in Subsection (5)(a) address  
 313 record-keeping for the amount of planted seed, number of cuttings taken, date and time of  
 314 cutting and planting, number of plants established, and number of plants culled or dead.

315 Section 3. Section ~~4-41a-201~~ is amended to read:

316 **~~4-41a-201. Cannabis production establishment -- License.~~**

317 (1) A person may not operate a cannabis production establishment without a license  
 318 that the department issues under this chapter.

319 (2) (a) (i) Subject to Subsections (6), (7), ~~[and]~~ (8), and (13) and to Section  
 320 ~~4-41a-205~~~~;~~:

321 (A) for a licensing process that the department initiated before the effective date of this  
 322 bill, the department shall~~;~~ in accordance with] use the procedures in Title 63G, Chapter 6a,  
 323 Utah Procurement Code, ~~[issue a license to operate a cannabis production establishment]~~ to  
 324 review and rank applications for a cannabis production establishment license; and

325 (B) for a licensing process that the department initiates after the effective date of this



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bill, the department shall issue a license to operate a cannabis production establishment in accordance with the procedures described in Subsection (2)(a)(iii).

(ii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address, located in a zone described in Subsection ~~4-41a-406~~<sup>(1)</sup>(2)(a) or (b), where the applicant will operate the cannabis production establishment ~~[that is not within 1,000 feet of a community location or within 600 feet of an area zoned primarily for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area, unless the relevant county or municipality recommends in writing that the department waive the community location proximity limit];~~

(ii) the name and address of any individual who has:

(A) a financial or voting interest of 2% or greater in the proposed cannabis production establishment; or

(B) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:



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(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department approves;

(iv) ~~[evidence]~~ a statement that the applicant ~~[has obtained]~~ will obtain and ~~[maintains]~~ maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) \$250,000 for each cannabis cultivation facility for which the applicant applies; or

(B) \$50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

~~[(v) if the municipality or county where the proposed cannabis production establishment would be located requires a local land use permit, a copy of the applicant's approved application for the local land use permit; and]~~

~~[(vi)]~~ (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504~~[-]~~; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or

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residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) If the department approves an application for a license under this section:

(a) the applicant shall pay the department an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) (a) Except as provided in Subsection (4)(b), the department shall require a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The department may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the department receives more than one application for a cannabis production establishment within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The department may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or

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407 a cannabis cultivation facility; or

408 (c) proposes to operate the independent cannabis testing laboratory at the same physical  
409 location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis  
410 cultivation facility.

411 (7) The department may not issue a license to operate a cannabis production  
412 establishment to an applicant if any individual described in Subsection (2)(b)(ii):

413 (a) has been convicted under state or federal law of:

414 (i) a felony; or

415 (ii) after December 3, 2018, a misdemeanor for drug distribution; [or]

416 (b) is younger than 21 years old[-]; or

417 (c) after the effective date of this bill until January 1, 2023, is actively serving as a  
418 legislator.

419 (8) If an applicant for a cannabis production establishment license under this section  
420 holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 26, Chapter 61a,  
421 Utah Medical Cannabis Act, the department:

422 (a) shall consult with the Department of Health regarding the applicant if the license  
423 the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis Act; and

424 (b) may not give preference to the applicant based on the applicant's status as a holder  
425 of a license described in this Subsection (8).

426 (9) The department may revoke a license under this part:

427 (a) if the cannabis production establishment does not begin cannabis production  
428 operations within one year after the day on which the department issues the initial license;

429 (b) after the cannabis production establishment makes the same violation of this  
430 chapter three times; [or]

431 (c) if any individual described in Subsection (2)(b) is convicted, while the license is  
432 active, under state or federal law of:

433 (i) a felony; or

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(ii) after December 3, 2018, a misdemeanor for drug distribution[-]; or

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application.

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the department may revoke the licensee's license.

~~[(10)]~~ (11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

~~[(11)]~~ (12) The department shall begin accepting applications under this part on or before January 1, 2020.

~~[(12)]~~ (13) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(i)(A), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

Section 4. Section **4-41a-204** is amended to read:

**4-41a-204. Operating plan.**

(1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan

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that complies with this section and that includes:

(a) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

(b) a description of the credentials and experience of:

(i) each officer, director, and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26-61a-103;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

(g) for a cannabis cultivation facility, the information described in Subsection (2);

(h) for a cannabis processing facility, the information described in Subsection (3); and

(i) for an independent cannabis testing laboratory, the information described in Subsection (4).

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:

(i) cannabis cultivation practices, including the facility's intended pesticide use and fertilizer use; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.

(b) Except as provided in Subsection ~~[(2)(c) or (d)(i)]~~ (2)(c)(i) or (d)(ii), a cannabis cultivation facility ~~[that cultivates cannabis indoors]~~ may not:

(i) for a facility that cultivates cannabis only indoors:

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488 (A) use more than 100,000 square feet for cultivation; or

489 (B) hang, suspend, stack or otherwise position plants above other plants to cultivate  
490 more plants through use of vertical space; ~~and~~

491 (ii) ~~[a cannabis cultivation]~~ for a facility that cultivates cannabis only outdoors ~~[may~~  
492 ~~not]~~, use more than four acres for cultivation~~[-]; and~~

493 (iii) for a facility that cultivates cannabis through a combination of indoor and outdoor  
494 cultivation, use more combined indoor square footage and outdoor acreage than allowed under  
495 the department's formula described in Subsection (2)(e).

496 (c) (i) Each licensee may annually apply to the department for authorization to exceed  
497 the cannabis cultivation facility's current cultivation size limitation by up to 20%.

498 (ii) The department may, after conducting a review as described in Subsection  
499 4-41a-205(2)(a), grant the authorization described in Subsection (2)(c)(i).

500 (d) If a licensee describes an intended acreage or square footage under cultivation  
501 under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b):

502 (i) the licensee may not cultivate more than the licensee's identified intended acreage or  
503 square footage under cultivation; and

504 (ii) notwithstanding Subsection (2)(b), the department may allocate the remaining  
505 difference in acreage or square footage under cultivation to another licensee.

506 (e) The department shall, in accordance with Title 63G, Chapter 3, Utah  
507 Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor  
508 cultivation that:

509 (i) does not exceed, in estimated cultivation yield, the aggregate limitations described  
510 in Subsection (2)(b)(i) or (ii); and

511 (ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

512 (f) Notwithstanding an applicant's proposed operating plan, a cannabis production  
513 establishment is subject to land use regulations, as defined in Sections 10-9a-103 and  
514 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.



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(3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:

- (a) offered variety of cannabis product;
- (b) cannabinoid extraction method;
- (c) cannabinoid extraction equipment;
- (d) processing equipment;
- (e) processing techniques; and
- (f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:

- (a) cannabis and cannabis product testing capability;
- (b) cannabis and cannabis product testing equipment; and
- (c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

Section 5. Section **4-41a-205** is amended to read:

**4-41a-205. Number of licenses -- Cannabis cultivation facilities.**

(1) Except as provided in Subsection (2)(a), the department ~~[may not]~~ shall issue at least five but not more than [10] eight licenses to operate a cannabis cultivation facility.

(2) (a) The department may issue ~~[up to five]~~ a number of licenses to operate a cannabis cultivation facility that, in addition to the ~~[10]~~ licenses described in Subsection (1), does not cause the total number of licenses to exceed 15 if the department determines, in consultation with the Department of Health and after an annual or more frequent analysis of the current and anticipated market for medical cannabis ~~[in a medicinal dosage form and cannabis products in a medicinal dosage form]~~, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis ~~[in a medicinal dosage form and cannabis products in a medicinal dosage form]~~ to medical cannabis cardholders.

(b) If the recipient of one of the initial ~~[10]~~ licenses described in Subsection (1) ceases



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operations for any reason or otherwise abandons the license, the department may but is not required to grant the vacant license to another applicant based on an analysis as described in Subsection (2)(a).

(3) If there are more qualified applicants than the number of available licenses for cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the applicants and award the limited number of licenses described in Subsections (1) and (2) to the applicants that best demonstrate:

- (a) experience with establishing and successfully operating a business that involves:
    - (i) complying with a regulatory environment;
    - (ii) tracking inventory; and
    - (iii) training, evaluating, and monitoring employees;
  - (b) an operating plan that will best ensure the safety and security of patrons and the community;
  - (c) positive connections to the local community; and
  - (d) the extent to which the applicant can reduce the cost to patients of cannabis in a medicinal dosage form or cannabis products in a medicinal dosage form.
- (4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

Section 6. Section **4-41a-301** is amended to read:

**4-41a-301. Cannabis production establishment agent -- Registration.**

(1) An individual may not act as a cannabis production establishment agent unless the department registers the individual as a cannabis production establishment agent.

(2) The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:

- (a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

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(b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis pharmacy, ~~[the state central fill medical cannabis pharmacy]~~ a medical cannabis courier, a cannabis processing facility, or a cannabis cultivation facility.

(4) (a) The department shall, within 15 business days after the day on which the department receives a complete application from a cannabis production establishment on behalf of a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to the prospective agent if the cannabis production establishment:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of a licensed cannabis production establishment where the prospective agent will act as the cannabis production establishment's agent; and

(C) the submission required under Subsection (4)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) ~~[Each]~~ Except for an applicant reapplying for a cannabis production establishment agent registration card within less than one year after the expiration of the applicant's previous cannabis production establishment agent registration card, each prospective agent described in Subsection (4)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

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(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal Identification.

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(5) The department shall designate, on an individual's cannabis production establishment agent registration card:

(a) the name of the cannabis production establishment where the individual is registered as an agent; and

(b) the type of cannabis production establishment for which the individual is authorized to act as an agent.

(6) A cannabis production establishment agent shall comply with:

(a) a certification standard that the department develops; or

(b) a ~~[third-party]~~ certification standard that the department ~~[designates by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act]~~ has reviewed and approved.

(7) (a) The department shall ensure that the certification standard described in Subsection (6) includes training:

~~[(a)]~~ (i) in Utah medical cannabis law;

~~[(b)]~~ (ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

~~[(c)]~~ (iii) for a cannabis processing facility agent, in cannabis processing, manufacturing safety procedures for items for human consumption, and sanitation best practices; and

~~[(d)]~~ (iv) for an independent cannabis testing laboratory agent, in cannabis testing best practices.

(b) The department shall review the training described in Subsection (7)(a) annually or as often as necessary to ensure compliance with this section.

(8) For an individual who holds or applies for a cannabis production establishment agent registration card:

(a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; and

(b) the department shall revoke or refuse to issue the card if the individual is convicted

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under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(9) (a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.

(b) A cannabis production establishment agent may renew the agent's registration card if the agent:

(i) is eligible for a cannabis production establishment registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 7. Section 4-41a-302 is amended to read:

**4-41a-302. Cannabis production establishment agent registration card --  
Rebuttable presumption.**

(1) A cannabis production establishment agent whom the department registers under Section 4-41a-301 shall carry the individual's cannabis production establishment agent registration card with the agent at all times when:

(a) the agent is on the premises of a cannabis production establishment where the agent is registered;

(b) the agent is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between:

(i) two cannabis production establishments; or

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677 (ii) a cannabis production establishment and~~[(A)]~~ a medical cannabis pharmacy; ~~[or]~~  
 678 and

679 ~~[(B) the state central fill medical cannabis pharmacy, and]~~

680 (c) if the cannabis production establishment agent is an agent of a cannabis  
 681 ~~[cultivating]~~ cultivation facility, the agent is transporting raw cannabis plants to a cannabis  
 682 processing facility or an independent cannabis testing laboratory.

683 (2) If a cannabis processing facility agent possesses cannabis in a medicinal dosage  
 684 form, a cannabis product in a medicinal dosage form, or a medical cannabis device and  
 685 produces the registration card in the agent's possession in compliance with Subsection (1)  
 686 while handling, at a cannabis production establishment, or transporting the cannabis, cannabis  
 687 product, or medical cannabis device in compliance with Subsection (1):

688 (a) there is a rebuttable presumption that the agent possesses the cannabis, cannabis  
 689 product, or medical cannabis device legally; and

690 (b) a law enforcement officer does not have probable cause, based solely on the agent's  
 691 possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage  
 692 form, or medical cannabis device in compliance with Subsection (1), to believe that the  
 693 individual is engaging in illegal activity.

694 (3) (a) A cannabis production establishment agent who fails to carry the agent's  
 695 cannabis production establishment agent registration card in accordance with Subsection (1) is:

696 (i) for a first or second offense in a two-year period:

697 (A) guilty of an infraction; and

698 (B) subject to a \$100 fine; or

699 (ii) for a third or subsequent offense in a two-year period:

700 (A) guilty of a class C misdemeanor; and

701 (B) subject to a \$750 fine.

702 (b) (i) The prosecuting entity shall notify the department and the relevant cannabis  
 703 production establishment of each conviction under Subsection (3)(a).



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(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant cannabis production establishment a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty for a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Section 8. Section **4-41a-403** is amended to read:

**4-41a-403. Advertising.**

(1) ~~[A]~~ Except as provided in Subsection (2), (3), or (4), a cannabis production establishment may not advertise to the general public in any medium.

(2) ~~[Notwithstanding Subsection (1), a]~~ A cannabis production establishment may advertise an employment opportunity at the cannabis production [facility] establishment.

(3) A cannabis production establishment may maintain a website that:

(a) contains information about the establishment and employees; and

(b) does not advertise any medical cannabis, cannabis products, or medical cannabis devices.

(4) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis production establishment may use signage on the outside of the cannabis production establishment that:

(a) includes only:

(i) the cannabis production establishment's name and hours of operation; and

(ii) a green cross;

(b) does not exceed four feet by five feet in size; and

(c) complies with local ordinances regulating signage.

Section 9. Section **4-41a-404** is amended to read:

**4-41a-404. Cannabis, cannabis product, or medical cannabis device**



**S.B. 1002****Enrolled Copy****transportation.**

(1) (a) Only the following individuals may transport cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device under this chapter:

(i) a registered cannabis production establishment agent; or

(ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.

(b) Only an agent of a cannabis ~~[cultivating]~~ cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

(2) Except for an individual with a valid medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;

(b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that the cannabis, cannabis product, or medical cannabis device remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a cannabis cultivation facility and:

(A) another cannabis cultivation facility; or

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(B) a cannabis processing facility; and

(ii) between a cannabis processing facility and:

(A) another cannabis processing facility;

(B) an independent cannabis testing laboratory; or

(C) a medical cannabis pharmacy[~~;~~~~or~~];

~~[(D) the state central fill medical cannabis pharmacy.]~~

(4) (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the agent described in Subsection (4)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) the penalty described in Subsection (4)(b) does not apply; and

(ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.

Section 10. Section ~~4-41a-406~~ is amended to read:

**4-41a-406. Local control.**

(1) As used in this section:

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(a) "Land use decision" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(b) "Land use permit" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(c) "Land use regulation" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

~~[(H)]~~ (2) (a) If a municipality's or county's zoning ordinances provide for an industrial zone, ~~[the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of industrial zone.]~~ the operation of a cannabis production establishment shall be a permitted industrial use in any industrial zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one industrial zone in which the operation of a cannabis production establishment is a permitted use.

(b) If a municipality's or county's zoning ordinances provide for an agricultural zone, ~~[the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of agricultural zone.]~~ the operation of a cannabis production establishment shall be a permitted agricultural use in any agricultural zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one agricultural zone in which the operation of a cannabis production establishment is a permitted use.

(c) The operation of a cannabis production establishment shall be a permitted use on land that the municipality or county has not zoned.

~~[(2)-(a)]~~ (3) A municipality or county may not ~~[deny or revoke a land use permit to operate a cannabis production facility];~~

(a) on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis~~[-(b) A municipality or county may not]~~<sub>2</sub> deny or revoke;

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812 (i) a land use permit to operate a cannabis production facility; or  
813 (ii) a business license to operate a cannabis production facility ~~[on the sole basis that~~  
814 ~~the applicant or cannabis production establishment violates federal law regarding the legal~~  
815 ~~status of cannabis.];~~

816 (b) require a certain distance between a cannabis production establishment and:  
817 (i) another cannabis production establishment;  
818 (ii) a medical cannabis pharmacy;  
819 (iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or  
820 (iv) an outlet, as that term is defined in Section 32B-1-202; or  
821 (c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use  
822 regulation against a cannabis production establishment that was not in effect on the day on  
823 which the cannabis production establishment submitted a complete land use application.

824 (4) An applicant for a land use permit to operate a cannabis production establishment  
825 shall comply with the land use requirements and application process described in:

826 (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act,  
827 including Section 10-9a-528; and  
828 (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act,  
829 including Section 17-27a-525.

830 Section 11. Section 4-41a-501 is amended to read:  
831 **4-41a-501. Cannabis cultivation facility -- Operating requirements.**

832 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the  
833 cannabis cultivation facility is not visible from the ground level of the cannabis cultivation  
834 facility perimeter.

835 (2) A cannabis cultivation facility shall use a unique identifier that is connected to the  
836 cannabis cultivation facility's inventory control system to identify:

837 (a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each  
838 cannabis plant;

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(b) each unique harvest of cannabis plants;

(c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, ~~the state central fill medical cannabis pharmacy,~~ a cannabis processing facility, or an independent cannabis testing laboratory; and

(d) any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.

Section 12. Section ~~4-41a-701~~ is amended to read:

**4-41a-701. Cannabis and cannabis product testing.**

(1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis processing facility unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption.

(2) A cannabis processing facility may not offer any cannabis or cannabis products for sale to a medical cannabis pharmacy ~~[or the state central fill medical cannabis pharmacy,]~~ and a medical cannabis pharmacy ~~[and the state central fill medical cannabis pharmacy]~~ may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine:

(a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the cannabis or cannabis product; and

(ii) the amount of any other cannabinoid in the cannabis or cannabis product that the label claims the cannabis or cannabis product contains;

(b) that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption; and

(c) for a cannabis product that is manufactured using a process that involves extraction using hydrocarbons, that the cannabis product does not contain a level of a residual solvent that

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866 is not safe for human consumption.

867 (3) By rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
868 Act, the department:

869 (a) may determine the amount of any substance described in Subsections (2)(b) and (c)  
870 that is safe for human consumption; and

871 (b) shall establish protocols for a recall of cannabis or a cannabis product by a cannabis  
872 production establishment.

873 (4) The department may require testing for a toxin if:

874 (a) the department receives information indicating the potential presence of a toxin; or

875 (b) the department's inspector has reason to believe a toxin may be present based on the  
876 inspection of a facility.

877 (5) The department shall establish by rule, in accordance with Title 63G, Chapter 3,  
878 Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the  
879 testing of cannabis and cannabis products by independent cannabis testing laboratories.

880 (6) The department may require an independent cannabis testing laboratory to  
881 participate in a proficiency evaluation that the department conducts or that an organization that  
882 the department approves conducts.

883 Section 13. Section **4-41a-901** is enacted to read:

884 **Part 9. Academic Medical Cannabis Research**

885 **4-41a-901. Academic medical cannabis research -- License.**

886 (1) A medical cannabis research licensee may, subject to department rules described in  
887 Subsection (4), obtain from a cannabis production establishment, and possess, cannabis for  
888 academic medical cannabis research.

889 (2) The department shall license a research university to obtain and possess cannabis  
890 for the purpose of academic medical cannabis research if the research university submits to the  
891 department:

892 (a) the location where the research university intends to conduct the research;



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893 (b) the research university's research plan; and

894 (c) the name of the employee of the research university who will:

895 (i) supervise the obtaining of cannabis;

896 (ii) be responsible to possess and secure the cannabis; and

897 (iii) oversee the academic research.

898 (3) The department shall maintain a list of each medical cannabis research licensee.

899 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah

900 Administrative Rulemaking Act, to:

901 (a) establish requirements for a licensee to:

902 (i) participate in academic medical cannabis research;

903 (ii) obtain from a cannabis production establishment, and possess, cannabis for  
 904 academic medical cannabis research; and

905 (b) set sampling and testing procedures.

906 (5) A medical cannabis research licensee shall provide to the department written  
 907 consent allowing a representative of the department and local law enforcement to enter all  
 908 premises where the licensee possesses or stores cannabis for the purpose of:

909 (a) conducting a physical inspection; or

910 (b) ensuring compliance with the requirements of this chapter.

911 (6) An individual who has been convicted of a drug related felony within the last 10  
 912 years may not obtain, possess, or conduct any research on cannabis under a medical cannabis  
 913 research licensee's license under this part.

914 (7) The department may set a fee, in accordance with Subsection [4-2-103\(2\)](#), for the  
 915 application for a medical cannabis research license.

916 Section 14. Section **4-41a-902** is enacted to read:

917 **4-41a-902. Cannabis production establishment product for academic research.**

918 A cannabis production establishment may sell cannabis and cannabis products to a  
 919 medical cannabis research licensee for the purpose of academic research.

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Section 15. Section **4-41a-903** is enacted to read:

**4-41a-903. Unlawful acts.**

(1) It is unlawful for a person who is not operating under the license of a medical cannabis research licensee to obtain or possess cannabis for academic medical cannabis research.

(2) It is unlawful for a cannabis production establishment to offer, sell, or otherwise provide cannabis or cannabis products for the purpose of academic research to an entity that is not a medical cannabis research licensee.

(3) The department may seize from a medical cannabis research licensee and destroy cannabis or cannabis products that do not comply with this chapter.

Section 16. Section **10-9a-528** is enacted to read:

**10-9a-528. Cannabis production establishments and medical cannabis pharmacies.**

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section [4-41a-102](#).

(b) "Medical cannabis pharmacy" means the same as that term is defined in Section [26-61a-102](#).

(2) (a) (i) A municipality may not regulate a cannabis production establishment in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence; and

(B) this chapter.

(ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:

(A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence; and

(B) this chapter.

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(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment.

(c) The Department of Health has plenary authority to license programs or entities that operate a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section [4-41a-406](#); or

(ii) regarding a medical cannabis pharmacy, Section [26-61a-507](#).

(b) A municipality shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection [10-9a-509.5\(2\)](#).

Section 17. Section **15A-5-103** is amended to read:

**15A-5-103. Nationally recognized codes incorporated by reference.**

The following codes are incorporated by reference into the State Fire Code:

(1) the International Fire Code, 2018 edition, excluding appendices, as issued by the International Code Council, Inc., except as amended by Part 2, Statewide Amendments and Additions to International Fire Code Incorporated as Part of State Fire Code;

(2) National Fire Protection Association, NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2017 edition, except as amended by Part 3, Amendments and Additions to National Fire Protection Association Incorporated as Part of State Fire Code; ~~and~~

(3) National Fire Protection Association, NFPA 1403, Standard on Live Fire Training Evolutions, 2012 edition, except as amended by Part 3, Amendments and Additions to National Fire Protection Association Incorporated as Part of State Fire Code[-]; and

(4) National Fire Protection Association, NFPA 1, Chapter 38, Marijuana Growing,

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974 Processing, and Extraction Facilities, 2018 edition.

975 Section 18. Section **17-27a-525** is enacted to read:

976 **17-27a-525. Cannabis production establishments and medical cannabis**  
977 **pharmacies.**

978 (1) As used in this section:

979 (a) "Cannabis production establishment" means the same as that term is defined in  
980 Section [4-41a-102](#).

981 (b) "Medical cannabis pharmacy" means the same as that term is defined in Section  
982 [26-61a-102](#).

983 (2) (a) (i) A county may not regulate a cannabis production establishment in conflict  
984 with:

985 (A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable  
986 jurisprudence; and

987 (B) this chapter.

988 (ii) A county may not regulate a medical cannabis pharmacy in conflict with:

989 (A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence;  
990 and

991 (B) this chapter.

992 (b) The Department of Agriculture and Food has plenary authority to license programs  
993 or entities that operate a cannabis production establishment.

994 (c) The Department of Health has plenary authority to license programs or entities that  
995 operate a medical cannabis pharmacy.

996 (3) (a) Within the time period described in Subsection (3)(b), a county shall prepare  
997 and adopt a land use regulation, development agreement, or land use decision in accordance  
998 with this title and:

999 (i) regarding a cannabis production establishment, Section [4-41a-406](#); or

1000 (ii) regarding a medical cannabis pharmacy, Section [26-61a-507](#).

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(b) A county shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the county receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection [10-9a-509.5\(2\)](#).

Section 19. Section **26-61a-102** is amended to read:

**26-61a-102. Definitions.**

As used in this chapter:

(1) "Blister" means a plastic cavity or pocket used to contain no more than a single dose of cannabis or a cannabis product in a blister pack.

(2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each containing no more than a single dose of cannabis or a cannabis product.

(3) "Cannabis" means marijuana.

(4) "Cannabis cultivation facility" means the same as that term is defined in Section [4-41a-102](#).

(5) "Cannabis processing facility" means the same as that term is defined in Section [4-41a-102](#).

(6) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

(7) "Cannabis production establishment" means the same as that term is defined in Section [4-41a-102](#).

~~[(7)]~~ (8) "Cannabis production establishment agent" means the same as that term is defined in Section [4-41a-102](#).

~~[(8)]~~ (9) "Cannabis production establishment agent registration card" means the same as that term is defined in Section [4-41a-102](#).

~~[(9)]~~ (10) "Community location" means a public or private school, a licensed child-care facility or preschool, a church, a public library, a public playground, or a public park.

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1028           ~~[(10)]~~ (11) "Department" means the Department of Health.

1029           ~~[(11)]~~ (12) "Designated caregiver" means an individual:

1030           (a) whom an individual with a medical cannabis patient card or a medical cannabis

1031 guardian card designates as the patient's caregiver; and

1032           (b) who registers with the department under Section 26-61a-202.

1033           ~~[(12)]~~ (13) "Dosing parameters" means quantity, routes, and frequency of

1034 administration for a recommended treatment of cannabis in a medicinal dosage form or a

1035 cannabis product in a medicinal dosage form.

1036           (14) "Financial institution" means a bank, trust company, savings institution, or credit

1037 union, chartered and supervised under state or federal law.

1038           (15) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy

1039 that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis

1040 shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the

1041 state central patient portal facilitates.

1042           ~~[(13)]~~ (16) "Independent cannabis testing laboratory" means the same as that term is

1043 defined in Section 4-41a-102.

1044           ~~[(14)]~~ (17) "Inventory control system" means the system described in Section

1045 4-41a-103.

1046           ~~[(15)]~~ "Local health department" means the same as that term is defined in Section

1047 26A-1-102.]

1048           ~~[(16)]~~ "Local health department distribution agent" means an agent designated and

1049 registered to distribute state central fill shipments under Sections 26-61a-606 and 26-61a-607.]

1050           ~~[(17)]~~ (18) "Marijuana" means the same as that term is defined in Section 58-37-2.

1051           ~~[(18)]~~ (19) "Medical cannabis" means cannabis in a medicinal dosage form or a

1052 cannabis product in a medicinal dosage form.

1053           ~~[(19)]~~ (20) "Medical cannabis card" means a medical cannabis patient card, a medical

1054 cannabis guardian card, or a medical cannabis caregiver card.



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1055 ~~[(20)]~~ (21) "Medical cannabis cardholder" means a holder of a medical cannabis card.

1056 ~~[(21)]~~ (22) "Medical cannabis caregiver card" means an ~~[official]~~ electronic document  
 1057 that a cardholder may print or store on an electronic device or a physical card or document that:

1058 (a) the department issues to an individual whom a medical cannabis patient cardholder  
 1059 or a medical cannabis guardian cardholder designates as a designated caregiver; and

1060 (b) is connected to the electronic verification system.

1061 (23) "Medical cannabis courier" means a courier that:

1062 (a) the department licenses in accordance with Section 26-61a-604; and

1063 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical  
 1064 cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

1065 ~~[(22)]~~ (24) (a) "Medical cannabis device" means a device that an individual uses to  
 1066 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal  
 1067 dosage form.

1068 (b) "Medical cannabis device" does not include a device that:

1069 (i) facilitates cannabis combustion; or

1070 (ii) an individual uses to ingest substances other than cannabis.

1071 ~~[(23)]~~ (25) "Medical cannabis guardian card" means an ~~[official]~~ electronic document  
 1072 that a cardholder may print or store on an electronic device or a physical card or document that:

1073 (a) the department issues to the parent or legal guardian of a minor with a qualifying  
 1074 condition; and

1075 (b) is connected to the electronic verification system.

1076 ~~[(24)]~~ (26) "Medical cannabis patient card" means an ~~[official]~~ electronic document  
 1077 that a cardholder may print or store on an electronic device or a physical card or document that:

1078 (a) the department issues to an individual with a qualifying condition; and

1079 (b) is connected to the electronic verification system.

1080 ~~[(25)]~~ (27) "Medical cannabis pharmacy" means a person that:

1081 (a) (i) acquires or intends to acquire:

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1082 (A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage  
1083 form from a cannabis processing facility; or  
1084 (B) a medical cannabis device; or  
1085 (ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal  
1086 dosage form, or a medical cannabis device; and  
1087 (b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a  
1088 medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.  
1089 ~~[(26)]~~ (28) "Medical cannabis pharmacy agent" means an individual who:  
1090 (a) is an employee of a medical cannabis pharmacy; and  
1091 (b) who holds a valid medical cannabis pharmacy agent registration card.  
1092 ~~[(27)]~~ (29) "Medical cannabis pharmacy agent registration card" means a registration  
1093 card issued by the department that authorizes an individual to act as a medical cannabis  
1094 pharmacy agent.  
1095 (30) "Medical cannabis shipment" means a shipment of medical cannabis or a medical  
1096 cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis  
1097 courier delivers to a medical cannabis cardholder's home address to fulfill an electronic medical  
1098 cannabis order that the state central patient portal facilitates.  
1099 ~~[(28)]~~ (31) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a  
1100 cannabis product in a medicinal dosage form, or a medical cannabis device.  
1101 ~~[(29)]~~ (32) (a) "Medicinal dosage form" means:  
1102 (i) for processed medical cannabis or a medical cannabis product, the following with a  
1103 specific and consistent cannabinoid content:  
1104 (A) a tablet;  
1105 (B) a capsule;  
1106 (C) a concentrated oil;  
1107 (D) a liquid suspension;  
1108 (E) a topical preparation;

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1109 (F) a transdermal preparation;

1110 (G) a sublingual preparation;

1111 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or

1112 rectangular cuboid shape; or

1113 (I) for use only after the individual's qualifying condition has failed to substantially

1114 respond to at least two other forms described in this Subsection [~~(29)~~] (32)(a)(i), a resin or

1115 wax;

1116 (ii) for unprocessed cannabis flower, a blister pack, with each individual blister:

1117 (A) containing a specific and consistent weight that does not exceed one gram and that

1118 varies by no more than 10% from the stated weight; and

1119 (B) after December 31, 2020, labeled with a barcode that provides information

1120 connected to an inventory control system and the individual blister's content and weight; and

1121 (iii) a form measured in grams, milligrams, or milliliters.

1122 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

1123 (i) the medical cannabis cardholder has recently removed from the blister pack

1124 described in Subsection [~~(29)~~] (32)(a)(ii) for use; and

1125 (ii) does not exceed the quantity described in Subsection [~~(29)~~] (32)(a)(ii).

1126 (c) "Medicinal dosage form" does not include:

1127 (i) any unprocessed cannabis flower outside of the blister pack, except as provided in

1128 Subsection [~~(29)~~] (32)(b); or

1129 (ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis

1130 on a nail or other metal object that is heated by a flame, including a blowtorch.

1131 (33) "Payment provider" means an entity that contracts with a cannabis production

1132 establishment or medical cannabis pharmacy to facilitate transfers of funds between the

1133 establishment or pharmacy and other businesses or individuals.

1134 [~~(30)~~] (34) "Pharmacy medical provider" means the medical provider required to be on

1135 site at a medical cannabis pharmacy under Section 26-61a-403.

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1136 ~~[(31)]~~ (35) "Provisional patient card" means a card that:

1137 (a) the department issues to a minor with a qualifying condition for whom:

1138 (i) a qualified medical provider has recommended a medical cannabis treatment; and

1139 (ii) the department issues a medical cannabis guardian card to the minor's parent or  
1140 legal guardian; and

1141 (b) is connected to the electronic verification system.

1142 ~~[(32)]~~ (36) "Qualified medical provider" means an individual who is qualified to  
1143 recommend treatment with cannabis in a medicinal dosage form under Section ~~26-61a-106~~.

1144 ~~[(33)] "Qualified Distribution Enterprise Fund" means the enterprise fund created in~~  
1145 ~~Section ~~26-61a-110~~.~~

1146 ~~[(34)]~~ (37) "Qualified Patient Enterprise Fund" means the enterprise fund created in  
1147 Section ~~26-61a-109~~.

1148 ~~[(35)]~~ (38) "Qualifying condition" means a condition described in Section ~~26-61a-104~~.

1149 ~~[(36)] "State central fill agent" means an employee of the state central fill medical~~  
1150 ~~cannabis pharmacy that the department registers in accordance with Section ~~26-61a-602~~.~~

1151 ~~[(37)] "State central fill medical cannabis pharmacy" means the central fill pharmacy~~  
1152 ~~that the department creates in accordance with Section ~~26-61a-601~~.~~

1153 (39) "State central patient portal" means the website the department creates, in  
1154 accordance with Section ~~26-61a-601~~, to facilitate patient safety, education, and an electronic  
1155 medical cannabis order.

1156 ~~[(38)]~~ (40) "State central ~~[fill medical provider]~~ patient portal medical provider" means  
1157 a physician or pharmacist that the ~~[state central fill medical cannabis pharmacy]~~ department  
1158 employs in relation to the state central patient portal to consult with medical cannabis  
1159 cardholders in accordance with Section ~~[26-61a-601]~~ 26-61a-602.

1160 ~~[(39)] "State central fill shipment" means a shipment of cannabis in a medicinal dosage~~  
1161 ~~form, cannabis product in a medicinal dosage form, or a medical cannabis device that the state~~  
1162 ~~central fill medical cannabis pharmacy prepares and ships for distribution to a medical cannabis~~

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1163 ~~cardholder in a local health department.]~~

1164 ~~[(40)]~~ (41) "State electronic verification system" means the system described in Section  
 1165 ~~26-61a-103.~~

1166 (42) "Valid form of photo identification" means a valid United States federal- or  
 1167 state-issued photo identification, including:

1168 (a) a driver license;

1169 (b) a United States passport;

1170 (c) a United States passport card; or

1171 (d) a United States military identification card.

1172 Section 20. Section **26-61a-103** is amended to read:

1173 **26-61a-103. Electronic verification system.**

1174 (1) The Department of Agriculture and Food, the department, the Department of Public  
 1175 Safety, and the Department of Technology Services shall:

1176 (a) enter into a memorandum of understanding in order to determine the function and  
 1177 operation of the state electronic verification system in accordance with Subsection (2);

1178 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah  
 1179 Procurement Code, to develop a request for proposals for a third-party provider to develop and  
 1180 maintain the state electronic verification system in coordination with the Department of

1181 Technology Services; and

1182 (c) select a third-party provider who:

1183 (i) meets the requirements contained in the request for proposals issued under  
 1184 Subsection (1)(b); and

1185 (ii) may not have any commercial or ownership interest in a cannabis production  
 1186 establishment or a medical cannabis pharmacy.

1187 (2) The Department of Agriculture and Food, the department, the Department of Public  
 1188 Safety, and the Department of Technology Services shall ensure that, on or before March 1,  
 1189 2020, the state electronic verification system described in Subsection (1):

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(a) allows an individual, with the individual's qualified medical provider in the qualified medical provider's office, to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card;

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, during a visit with a patient, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing parameters;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) for the qualified medical provider who originally recommended a medical cannabis treatment, as that term is defined in Section 26-61a-102, using telehealth services; or

(B) for a qualified medical provider who did not originally recommend the medical cannabis treatment, during a face-to-face visit with a patient; and

~~[(iv) at the request of a medical cannabis cardholder, initiate a state central fill shipment in accordance with Section 26-61a-603;]~~

(iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

(d) connects with:

(i) an inventory control system that a medical cannabis pharmacy ~~[and the state central fill medical cannabis pharmacy use]~~ uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a



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1217 medical cannabis device, including:

1218 (A) the time and date of each purchase;

1219 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device

1220 purchased;

1221 (C) any cannabis production establishment, any medical cannabis pharmacy, or [~~the~~

1222 ~~state central fill~~] any medical cannabis [~~pharmacy~~] courier associated with the cannabis,

1223 cannabis product, or medical cannabis device; and

1224 (D) the personally identifiable information of the medical cannabis cardholder who

1225 made the purchase; and

1226 (ii) any commercially available inventory control system that a cannabis production

1227 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of

1228 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah

1229 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to

1230 track and confirm compliance;

1231 (e) provides access to:

1232 (i) the department to the extent necessary to carry out the department's functions and

1233 responsibilities under this chapter;

1234 (ii) the Department of Agriculture and Food to the extent necessary to carry out the

1235 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter

1236 41a, Cannabis Production Establishments; and

1237 (iii) the Division of Occupational and Professional Licensing to the extent necessary to

1238 carry out the functions and responsibilities related to the participation of the following in the

1239 recommendation and dispensing of medical cannabis:

1240 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1241 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse

1242 Practice Act;

1243 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or

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1244 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or  
1245 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician  
1246 Assistant Act;

1247 (f) provides access to and interaction with the state central ~~[fill medical cannabis~~  
1248 ~~pharmacy, state central fill agents, and local health department distribution agents, to facilitate~~  
1249 ~~the state central fill shipment process]~~ patient portal;

1250 (g) provides access to state or local law enforcement:

1251 (i) during a traffic stop for the purpose of determining if the individual subject to the  
1252 traffic stop is in compliance with state medical cannabis law; or

1253 (ii) after obtaining a warrant; and

1254 (h) creates a record each time a person accesses the database that identifies the person  
1255 who accesses the database and the individual whose records the person accesses.

1256 (3) The department may release ~~[de-identified]~~ limited data that the system collects for  
1257 the purpose of:

1258 (a) conducting medical and other department approved research; ~~[and]~~  
1259 (b) providing the report required by Section ~~26-61a-703~~[-]; and  
1260 (c) other official department purposes.

1261 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah  
1262 Administrative Rulemaking Act, to establish:

1263 (a) the limitations on access to the data in the state electronic verification system as  
1264 described in this section; and

1265 (b) standards and procedures to ensure accurate identification of an individual  
1266 requesting information or receiving information in this section.

1267 (5) (a) Any person who knowingly and intentionally releases any information in the  
1268 state electronic verification system in violation of this section is guilty of a third degree felony.

1269 (b) Any person who negligently or recklessly releases any information in the state  
1270 electronic verification system in violation of this section is guilty of a class C misdemeanor.

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(6) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(7) (a) Except as provided in Subsection (7)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (7) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed \$5,000.

(c) The department shall determine a civil violation of this Subsection (7) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (7) shall be deposited into the General Fund.

(e) This Subsection (7) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 21. Section **26-61a-106** is amended to read:

**26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation.**

(1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a

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1298 medical cannabis treatment unless the department registers the individual as a qualified  
1299 medical provider in accordance with this section.

1300 (b) An individual who meets the qualifications in Subsections 26-61a-106(2)(a)(iii)  
1301 and (iv) may recommend a medical cannabis treatment without registering under Subsection  
1302 (1)(a) until January 1, 2021.

1303 (2) (a) The department shall, within 15 days after the day on which the department  
1304 receives an application from an individual, register and issue a qualified medical provider  
1305 registration card to the individual if the individual:

1306 (i) provides to the department the individual's name and address;

1307 (ii) provides to the department a report detailing the individual's completion of the  
1308 applicable continuing education requirement described in Subsection (3);

1309 (iii) provides to the department evidence that the individual:

1310 (A) has the authority to write a prescription;

1311 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah  
1312 Controlled Substances Act; and

1313 (C) possesses the authority, in accordance with the individual's scope of practice, to  
1314 prescribe a Schedule II controlled substance;

1315 (iv) provides to the department evidence that the individual is:

1316 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse  
1317 Practice Act;

1318 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or  
1319 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1320 (C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant  
1321 Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102,  
1322 includes the recommending of medical cannabis, and whose supervising physician is a  
1323 qualified medical provider; and

1324 (v) pays the department a fee in an amount that:

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1325 (A) the department sets, in accordance with Section 63J-1-504; and  
1326 (B) does not exceed \$300 for an initial registration.

1327 (b) The department may not register an individual as a qualified medical provider if the  
1328 individual is:

1329 (i) a pharmacy medical provider [~~or a state central fill medical provider~~]; or  
1330 (ii) an owner, officer, director, board member, employee, or agent of a cannabis  
1331 production establishment [~~or~~], a medical cannabis pharmacy, or a medical cannabis courier.

1332 (3) (a) An individual shall complete the continuing education described in this  
1333 Subsection (3) in the following amounts:

1334 (i) for an individual as a condition precedent to registration, four hours; and  
1335 (ii) for a qualified medical provider as a condition precedent to renewal, four hours  
1336 every two years.

1337 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

1338 (i) complete continuing education:

1339 (A) regarding the topics described in Subsection (3)(d); and  
1340 (B) offered by the department under Subsection (3)(c) or an accredited or approved  
1341 continuing education provider that the department recognizes as offering continuing education  
1342 appropriate for the recommendation of cannabis to patients; and

1343 (ii) make a continuing education report to the department in accordance with a process  
1344 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah  
1345 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and  
1346 Professional Licensing and:

1347 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,  
1348 Nurse Practice Act, the Board of Nursing;

1349 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical  
1350 Practice Act, the Physicians Licensing Board;

1351 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah

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1352 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;  
1353 and

1354 (D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician  
1355 Assistant Act, the Physician Assistant Licensing Board.

1356 (c) The department may, in consultation with the Division of Occupational and  
1357 Professional Licensing, develop the continuing education described in this Subsection (3).

1358 (d) The continuing education described in this Subsection (3) may discuss:

1359 (i) the provisions of this chapter;

1360 (ii) general information about medical cannabis under federal and state law;

1361 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,  
1362 including risks and benefits;

1363 (iv) recommendations for medical cannabis as it relates to the continuing care of a  
1364 patient in pain management, risk management, potential addiction, or palliative care; and

1365 (v) best practices for recommending the form and dosage of medical cannabis products  
1366 based on the qualifying condition underlying a medical cannabis recommendation.

1367 (4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may  
1368 not recommend a medical cannabis treatment to more than 175 of the qualified medical  
1369 provider's patients at the same time, as determined by the number of medical cannabis cards  
1370 under the qualified medical provider's name in the state electronic verification system.

1371 (b) Except as provided in Subsection (4)(c), a qualified medical provider may  
1372 recommend a medical cannabis treatment to up to 300 of the qualified medical provider's  
1373 patients at any given time, as determined by the number of medical cannabis cards under the  
1374 qualified medical provider's name in the state electronic verification system, if:

1375 (i) the appropriate American medical board has certified the qualified medical provider  
1376 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and  
1377 palliative medicine, physical medicine and rehabilitation, rheumatology, or psychiatry; or

1378 (ii) a licensed business employs or contracts with the qualified medical provider for the



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1379 specific purpose of providing hospice and palliative care.

1380 (c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in  
1381 Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for  
1382 authorization to exceed the limit described in Subsection (4)(b) by graduating increments of  
1383 100 patients per authorization, not to exceed three authorizations.

1384 (ii) The Division of Occupational and Professional Licensing shall grant the  
1385 authorization described in Subsection (4)(c)(i) if:

1386 (A) the petitioning qualified medical provider pays a \$100 fee;

1387 (B) the division performs a review that includes the qualified medical provider's  
1388 medical cannabis recommendation activity in the state electronic verification system, relevant  
1389 information related to patient demand, and any patient medical records that the division  
1390 determines would assist in the division's review; and

1391 (C) after the review described in this Subsection (4)(c)(ii), the division determines that  
1392 granting the authorization would not adversely affect public safety, adversely concentrate the  
1393 overall patient population among too few qualified medical providers, or adversely concentrate  
1394 the use of medical cannabis among the provider's patients.

1395 (5) A qualified medical provider may recommend medical cannabis to an individual  
1396 under this chapter only in the course of a qualified medical provider-patient relationship after  
1397 the qualifying medical provider has completed and documented in the patient's medical record  
1398 a thorough assessment of the patient's condition and medical history based on the appropriate  
1399 standard of care for the patient's condition.

1400 (6) (a) Except as provided in Subsection (6)(b), a qualified medical provider may not  
1401 advertise that the qualified medical provider recommends medical cannabis treatment.

1402 (b) For purposes of Subsection (6)(a), the communication of the following, through a  
1403 website does not constitute advertising:

1404 (i) a green cross;

1405 (ii) a qualifying condition that the qualified medical provider treats; or

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1406 (iii) a scientific study regarding medical cannabis use.

1407 (7) (a) A qualified medical provider registration card expires two years after the day on

1408 which the department issues the card.

1409 (b) The department shall renew a qualified medical provider's registration card if the

1410 provider:

1411 (i) applies for renewal;

1412 (ii) is eligible for a qualified medical provider registration card under this section,

1413 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

1414 (iii) certifies to the department in a renewal application that the information in

1415 Subsection (2)(a) is accurate or updates the information;

1416 (iv) submits a report detailing the completion of the continuing education requirement

1417 described in Subsection (3); and

1418 (v) pays the department a fee in an amount that:

1419 (A) the department sets, in accordance with Section 63J-1-504; and

1420 (B) does not exceed \$50 for a registration renewal.

1421 (8) The department may revoke the registration of a qualified medical provider who

1422 fails to maintain compliance with the requirements of this section.

1423 (9) A qualified medical provider may not receive any compensation or benefit for the

1424 qualified medical provider's medical cannabis treatment recommendation from:

1425 (a) a cannabis production establishment or an owner, officer, director, board member,

1426 employee, or agent of a cannabis production establishment;

1427 (b) a medical cannabis pharmacy or an owner, officer, director, board member,

1428 employee, or agent of a medical cannabis pharmacy; or

1429 (c) a qualified medical provider or pharmacy medical provider.

1430 Section 22. Section **26-61a-107** is amended to read:

1431 **26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No**

1432 **private right of action.**

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(1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:

(a) civil or criminal liability; or

(b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act.

(2) The limitations of liability described in Subsection (1) apply to:

(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act:

(i) (A) whom the department has registered as a qualified medical provider; and

(B) who recommends treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a patient in accordance with this chapter; or

(ii) before January 1, 2021, who:

(A) has the authority to write a prescription; and

(B) recommends a medical cannabis treatment to a patient who has a qualifying condition; and

(b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

(i) whom the department has registered as a pharmacy medical provider [~~or a state central fill medical provider~~]; and

(ii) who dispenses, in a medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~], treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.

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(3) Nothing in this section or chapter reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:

(a) who may have a qualifying condition; and

(b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or

(ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.

Section 23. Section **26-61a-109** is amended to read:

**26-61a-109. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality.**

(1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund under this chapter;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the department's responsibilities under this chapter~~[-except for the responsibilities described in Subsection 26-61a-110(4)].~~

(5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

Section 24. Section **26-61a-111** is amended to read:

**26-61a-111. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees.**

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(1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of ~~[opioids and opiates]~~ any prescribed controlled substance.

(b) Subsection (2)(a) does not apply where the application of Subsection (2)(a) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position.

(3) (a) (i) A state employer or a political subdivision employer shall take the action described in Subsection (3)(a)(ii) before:

(A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

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(B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(b) The Department of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(d) An employer of an employee who has signed the notice described in Subsection (3)(a) may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (3)(a).

Section 25. Section 26-61a-115 is enacted to read:

**26-61a-115. Analogous to prescribed controlled substances.**

When an employee, officer, or agent of the state or a political subdivision makes a finding, determination, or otherwise considers an individual's possession or use of cannabis, a cannabis product, or a medical cannabis device, the employee, officer, or agent may not consider the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance, if the individual's possession or use complies with:

(1) this chapter;

(2) Title 4, Chapter 41a, Cannabis Production Establishments; or

(3) Subsection 58-37-3.7(2) or (3).



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1541 Section 26. Section **26-61a-201** is amended to read:

1542 **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card**  
 1543 **application -- Fees -- Studies.**

1544 (1) On or before March 1, 2020, the department shall, within 15 days after the day on  
 1545 which an individual who satisfies the eligibility criteria in this section or Section **26-61a-202**  
 1546 submits an application in accordance with this section or Section **26-61a-202**:

1547 (a) issue a medical cannabis patient card to an individual described in Subsection

1548 (2)(a);

1549 (b) issue a medical cannabis guardian card to an individual described in Subsection

1550 (2)(b);

1551 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and

1552 (d) issue a medical cannabis caregiver card to an individual described in Subsection  
 1553 **26-61a-202(4).**

1554 (2) (a) An individual is eligible for a medical cannabis patient card if:

1555 (i) (A) the individual is at least 21 years old; or

1556 (B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate  
 1557 use board under Section **26-61a-105**, and the compassionate use board recommends department  
 1558 approval of the petition;

1559 (ii) the individual is a Utah resident;

1560 (iii) the individual's qualified medical provider recommends treatment with medical  
 1561 cannabis in accordance with Subsection (4);

1562 (iv) the individual signs an acknowledgment stating that the individual received the  
 1563 information described in Subsection (8); and

1564 (v) the individual pays to the department a fee in an amount that, subject to Subsection  
 1565 **26-61a-109(5)**, the department sets in accordance with Section **63J-1-504**.

1566 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

1567 (A) is at least 18 years old;

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1568 (B) is a Utah resident;

1569 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical  
1570 provider recommends a medical cannabis treatment, the individual petitions the compassionate  
1571 use board under Section 26-61a-105, and the compassionate use board recommends department  
1572 approval of the petition;

1573 (D) the individual signs an acknowledgment stating that the individual received the  
1574 information described in Subsection (8);

1575 (E) pays to the department a fee in an amount that, subject to Subsection  
1576 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the  
1577 criminal background check described in Section 26-61a-203; and

1578 (F) the individual has not been convicted of a misdemeanor or felony drug distribution  
1579 offense under either state or federal law, unless the individual completed any imposed sentence  
1580 six months or more before the day on which the individual applies for a medical cannabis  
1581 guardian card.

1582 (ii) The department shall notify the Department of Public Safety of each individual that  
1583 the department registers for a medical cannabis guardian card.

1584 (c) (i) A minor is eligible for a provisional patient card if:

1585 (A) the minor has a qualifying condition;

1586 (B) the minor's qualified medical provider recommends a medical cannabis treatment  
1587 to address the minor's qualifying condition;

1588 (C) the minor's parent or legal guardian petitions the compassionate use board under  
1589 Section 26-61a-105, and the compassionate use board recommends department approval of the  
1590 petition; and

1591 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card  
1592 under Subsection (2)(b).

1593 (ii) The department shall automatically issue a provisional patient card to the minor  
1594 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis

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1595 guardian card to the minor's parent or legal guardian.

1596 (3) (a) An individual who is eligible for a medical cannabis card described in  
1597 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the  
1598 department:

1599 (i) through an electronic application connected to the state electronic verification  
1600 system;

1601 (ii) with the recommending qualified medical provider while in the recommending  
1602 qualified medical provider's office; and

1603 (iii) with information including:

1604 (A) the applicant's name, gender, age, and address;

1605 (B) the number of the applicant's valid form of photo identification [~~that is a valid~~  
1606 ~~United States federal- or state-issued photo identification, including a driver license, a United~~  
1607 ~~States passport, a United States passport card, or a United States military identification card~~];

1608 (C) for a medical cannabis guardian card, the name, gender, and age of the minor  
1609 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;  
1610 and

1611 (D) for a provisional patient card, the name of the minor's parent or legal guardian who  
1612 holds the associated medical cannabis guardian card.

1613 (b) The department shall ensure that a medical cannabis card the department issues  
1614 under this section contains the information described in Subsection (3)(a)(iii).

1615 (c) (i) If a qualified medical provider determines that, because of age, illness, or  
1616 disability, a medical cannabis patient cardholder requires assistance in administering the  
1617 medical cannabis treatment that the qualified medical provider recommends, the qualified  
1618 medical provider may indicate the cardholder's need in the state electronic verification system.

1619 (ii) If a qualified medical provider makes the indication described in Subsection  
1620 (3)(c)(i):

1621 (A) the department shall add a label to the relevant medical cannabis patient card

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indicating the cardholder's need for assistance; and

(B) any adult who is 21 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment, including in the event of an emergency medical condition under Subsection 26-61a-204(2).

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a qualified medical provider shall:

(a) before recommending cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use; and

(b) state in the qualified medical provider's recommendation that the patient:

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1649 (i) suffers from a qualifying condition, including the type of qualifying condition; and  
1650 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis  
1651 product in a medicinal dosage form.

1652 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the  
1653 department issues under this section is valid for the lesser of:

1654 (i) an amount of time that the qualified medical provider determines; or

1655 (ii) (A) for the first issuance, 30 days; or

1656 (B) for a renewal, six months.

1657 (b) (i) A medical cannabis card that the department issues in relation to a terminal  
1658 illness described in Section 26-61a-104 does not expire.

1659 (ii) The recommending qualified medical provider may revoke a recommendation that  
1660 the provider made in relation to a terminal illness described in Section 26-61a-104 if the  
1661 medical cannabis cardholder no longer has the terminal illness.

1662 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is  
1663 renewable if:

1664 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or  
1665 (b); or

1666 (ii) the cardholder received the medical cannabis card through the recommendation of  
1667 the compassionate use board under Section 26-61a-105.

1668 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

1669 (i) using the application process described in Subsection (3); or

1670 (ii) through phone or video conference with the qualified medical provider who made  
1671 the recommendation underlying the card, at the qualifying medical provider's discretion.

1672 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall  
1673 pay to the department a renewal fee in an amount that:

1674 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section  
1675 63J-1-504; and

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(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(e) The department may revoke a medical cannabis guardian card if the cardholder under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(c) If ~~[neither]~~ a licensed medical cannabis pharmacy ~~[nor the state central fill medical cannabis pharmacy]~~ is not operating within the state after January 1, 2021, a cardholder under



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1703 this section is not subject to prosecution for the possession of:

1704 (i) no more than 113 grams of marijuana in a medicinal dosage form;

1705 (ii) an amount of cannabis product in a medicinal dosage form that contains no more  
1706 than 20 grams of tetrahydrocannabinol; or

1707 (iii) marijuana drug paraphernalia.

1708 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,  
1709 Utah Administrative Rulemaking Act, a process to provide information regarding the following  
1710 to an individual receiving a medical cannabis card:

1711 (a) risks associated with medical cannabis treatment;

1712 (b) the fact that a condition's listing as a qualifying condition does not suggest that  
1713 medical cannabis treatment is an effective treatment or cure for that condition, as described in  
1714 Subsection 26-61a-104(1); and

1715 (c) other relevant warnings and safety information that the department determines.

1716 (9) The department may establish procedures by rule, in accordance with Title 63G,  
1717 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance  
1718 provisions of this section.

1719 (10) (a) A person may submit[;] to the department a request to conduct a [medical]  
1720 research study using medical cannabis cardholder data that the state electronic verification  
1721 system contains.

1722 (b) The department shall review a request described in Subsection (10)(a) to determine  
1723 whether an institutional review board, as that term is defined in Section 26-61-102, could  
1724 approve the [medical] research study [is valid].

1725 (c) ~~[If the department makes a determination under Subsection (10)(b) that the medical~~  
1726 ~~research study is valid,]~~ At the time an individual applies for a medical cannabis card, the  
1727 department shall notify [each relevant] the individual:

1728 (i) of how the individual's information will be used as a cardholder [asking for];

1729 (ii) that by applying for a medical cannabis card, unless the individual withdraws

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consent under Subsection (10)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in [the study] external research at any time.

~~[(d)]~~ (e) The department may release, for the purposes of a study described in this Subsection (10), information about a cardholder under this section who consents to participate under Subsection (10)(c).

(f) If an individual withdraws consent under Subsection (10)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

~~[(e)]~~ (g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 27. Section **26-61a-202** is amended to read:

**26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.**

(1) A cardholder described in Section **26-61a-201** may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the cardholder if a qualified medical provider notates in the electronic verification system that the provider determines that, due to physical difficulty or undue hardship, including concerns of distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the qualified medical provider recommends.

(2) An individual that the department registers as a designated caregiver under this

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1757 section:

1758 (a) may carry a valid medical cannabis caregiver card;

1759 (b) in accordance with this chapter, may purchase, possess, transport, or assist the  
 1760 patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal  
 1761 dosage form, or a medical cannabis device on behalf of the designating medical cannabis  
 1762 cardholder;

1763 (c) may not charge a fee to an individual to act as the individual's designated caregiver  
 1764 or for a service that the designated caregiver provides in relation to the role as a designated  
 1765 caregiver;

1766 (d) may accept reimbursement from the designating medical cannabis cardholder for  
 1767 direct costs the designated caregiver incurs for assisting with the designating cardholder's  
 1768 medicinal use of cannabis; and

1769 (e) if ~~[neither]~~ a licensed medical cannabis pharmacy ~~[nor the state central fill medical~~  
 1770 ~~cannabis pharmacy]~~ is not operating within the state after January 1, 2021, is not subject to  
 1771 prosecution for the possession of:

1772 (i) no more than 113 grams of marijuana in a medicinal dosage form;

1773 (ii) an amount of cannabis product in a medicinal dosage form that contains no more  
 1774 than 20 grams of tetrahydrocannabinol; or

1775 (iii) marijuana drug paraphernalia.

1776 (3) (a) The department shall:

1777 (i) within 15 days after the day on which an individual submits an application in  
 1778 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

1779 (A) is designated as a caregiver under Subsection (1);

1780 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and

1781 (C) complies with this section; and

1782 (ii) notify the Department of Public Safety of each individual that the department  
 1783 registers as a designated caregiver.

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(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsection (5)(b).

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(8); and

(e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; and

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

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1811 (b) the amount of time remaining before the card of the cardholder described in Section  
 1812 26-61a-201 expires.

1813 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the  
 1814 designated caregiver's medical cannabis caregiver card renews automatically at the time the  
 1815 cardholder described in Section 26-61a-201 who designated the caregiver:

1816 (i) renews the cardholder's card; and

1817 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

1818 (b) The department shall provide a method in the card renewal process to allow a  
 1819 cardholder described in Section 26-61a-201 who has designated a caregiver to:

1820 (i) signify that the cardholder renews the caregiver's designation;

1821 (ii) remove a caregiver's designation; or

1822 (iii) designate a new caregiver.

1823 (8) The department may revoke a medical cannabis caregiver card if the designated  
 1824 caregiver:

1825 (a) violates this chapter; or

1826 (b) is convicted under state or federal law of:

1827 (i) a felony; or

1828 (ii) after December 3, 2018, a misdemeanor for drug distribution.

1829 Section 28. Section 26-61a-203 is amended to read:

1830 **26-61a-203. Designated caregiver -- Guardian -- Criminal background check.**

1831 (1) [Each] Except for an applicant reapplying for a medical cannabis card within less

1832 than one year after the expiration of the applicant's previous medical cannabis card, each

1833 applicant for a medical cannabis guardian card under Section 26-61a-201 or a medical cannabis  
 1834 caregiver card under Section 26-61a-202 shall:

1835 (a) submit to the department, at the time of application:

1836 (i) a fingerprint card in a form acceptable to the Department of Public Safety; and

1837 (ii) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the

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1838 registration of the applicant's fingerprints in the Federal Bureau of Investigation Next  
1839 Generation Identification System's Rap Back Service; and  
1840 (b) consent to a fingerprint background check by:  
1841 (i) the Bureau of Criminal Identification; and  
1842 (ii) the Federal Bureau of Investigation.  
1843 (2) The Bureau of Criminal Identification shall:  
1844 (a) check the fingerprints the applicant submits under Subsection (1)(a) against the  
1845 applicable state, regional, and national criminal records databases, including the Federal  
1846 Bureau of Investigation Next Generation Identification System;  
1847 (b) report the results of the background check to the department;  
1848 (c) maintain a separate file of fingerprints that applicants submit under Subsection  
1849 (1)(a) for search by future submissions to the local and regional criminal records databases,  
1850 including latent prints;  
1851 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
1852 Generation Identification System's Rap Back Service for search by future submissions to  
1853 national criminal records databases, including the Next Generation Identification System and  
1854 latent prints; and  
1855 (e) establish a privacy risk mitigation strategy to ensure that the department only  
1856 receives notifications for an individual with whom the department maintains an authorizing  
1857 relationship.  
1858 (3) The department shall:  
1859 (a) assess an applicant who submits fingerprints under Subsection (1)(a) a fee in an  
1860 amount that the department sets in accordance with Section 63J-1-504 for the services that the  
1861 Bureau of Criminal Identification or another authorized agency provides under this section; and  
1862 (b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal  
1863 Identification.  
1864 Section 29. Section **26-61a-204** is amended to read:



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**26-61a-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.**

(1) (a) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the cardholder purchased under this chapter shall:

(i) carry at all times the cardholder's medical cannabis card;

(ii) carry, with the cannabis in a medicinal dosage form or cannabis product in a medicinal dosage form, a label that identifies that the cannabis or cannabis product:

(A) was sold from a licensed medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~]; and

(B) includes an identification number that links the cannabis or cannabis product to the inventory control system; and

(iii) possess not more than:

(A) 113 grams of unprocessed cannabis; or

(B) an amount of cannabis product that contains 20 grams of total composite tetrahydrocannabinol.

(b) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form in violation of Subsection (1)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) A medical cannabis cardholder who possesses between 113 and 226 grams of unprocessed cannabis or a total amount of cannabis product that contains between 20 and 40 grams of total composite tetrahydrocannabinol is:

(i) guilty of a class B misdemeanor; and

(ii) subject to a fine of \$1,000.

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the

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conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A medical cannabis cardholder who possesses more than 226 grams of unprocessed cannabis or a total amount of cannabis product that contains more than 40 grams of total composite tetrahydrocannabinol is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-22-627.

(b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder or a provisional patient cardholder may not use, in public view, cannabis or a cannabis product.

(c) In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

(a) there is a rebuttable presumption that the cardholder possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the cardholder is engaging in illegal activity.

(4) (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine

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1919 whether the individual holds a valid medical cannabis card.

1920 (b) If the law enforcement officer is able to verify that the individual described in  
1921 Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

1922 (i) may not arrest or take the individual into custody for the sole reason that the  
1923 individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a  
1924 medicinal dosage form, or a medical cannabis device; and

1925 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

1926 Section 30. Section **26-61a-301** is amended to read:

1927 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

1928 (1) A person may not operate as a medical cannabis pharmacy without a license that  
1929 the department issues under this part.

1930 (2) (a) (i) Subject to Subsections (4) and (5) and to Section **26-61a-305**, the department  
1931 shall[;] issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,  
1932 Chapter 6a, Utah Procurement Code[;].

1933 (ii) The department may not issue a license to operate a medical cannabis pharmacy to  
1934 an applicant who is not eligible for a license under this section.

1935 (b) An applicant is eligible for a license under this section if the applicant submits to  
1936 the department:

1937 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will  
1938 operate the medical cannabis pharmacy;

1939 (ii) the name and address of an individual who:

1940 (A) has a financial or voting interest of 2% or greater in the proposed medical cannabis  
1941 pharmacy; or

1942 (B) has the power to direct or cause the management or control of a proposed cannabis  
1943 production establishment;

1944 (iii) ~~[evidence]~~ a statement that the applicant ~~[has obtained]~~ will obtain and ~~[maintains]~~  
1945 maintain a performance bond that a surety authorized to transact surety business in the state

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1946 issues in an amount of at least \$125,000 for each application that the applicant submits to the  
1947 department;

1948 (iv) an operating plan that:

1949 (A) complies with Section 26-61a-304; ~~[and]~~

1950 (B) includes operating procedures to comply with the operating requirements for a  
1951 medical cannabis pharmacy described in this chapter and with a relevant municipal or county  
1952 law that is consistent with Section 26-61a-507; and

1953 (C) the department approves;

1954 ~~[(v) if the municipality or county where the proposed medical cannabis pharmacy~~  
1955 ~~would be located requires a local land use permit, a copy of the person's approved application~~  
1956 ~~for the local land use permit; and]~~

1957 ~~[(vi)]~~ (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the  
1958 department sets in accordance with Section 63J-1-504[-]; and

1959 (vi) a description of any investigation or adverse action taken by any licensing  
1960 jurisdiction, government agency, law enforcement agency, or court in any state for any  
1961 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations  
1962 or businesses.

1963 (c) (i) A person may not locate a medical cannabis pharmacy:

1964 (A) within 200 feet of a community location; or

1965 (B) in or within 600 feet of ~~[an area]~~ a district that the relevant municipality or county  
1966 has zoned as primarily residential.

1967 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured  
1968 from the nearest entrance to the medical cannabis pharmacy establishment by following the  
1969 shortest route of ordinary pedestrian travel to the property boundary of the community location  
1970 or residential area.

1971 (iii) The department may grant a waiver to reduce the proximity requirements in  
1972 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible

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1973 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

1974 ~~[(ii)]~~ (iv) An applicant for a license under this section shall provide evidence of  
 1975 compliance with the proximity ~~[requirement]~~ requirements described in Subsection (2)(c)(i).

1976 ~~[(d) Except as provided in Subsection (2)(c), a medical cannabis pharmacy is a~~  
 1977 ~~permitted use in all zoning districts within a municipality or county.]~~

1978 (d) The department may not issue a license to an eligible applicant that the department  
 1979 has selected to receive a license until the selected eligible applicant obtains the performance  
 1980 bond described in Subsection (2)(b)(iii).

1981 (e) If the department receives more than one application for a medical cannabis  
 1982 pharmacy within the same city or town, the department shall consult with the local land use  
 1983 authority before approving any of the applications pertaining to that city or town.

1984 (3) If the department ~~[determines that]~~ selects an applicant ~~[is eligible]~~ for a medical  
 1985 cannabis pharmacy license under this section, the department shall:

1986 (a) charge the applicant an initial license fee in an amount that, subject to Subsection  
 1987 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

1988 (b) notify the Department of Public Safety of the license approval and the names of  
 1989 each individual described in Subsection (2)(b)(ii).

1990 (4) The department may not issue a license to operate a medical cannabis pharmacy to  
 1991 an applicant if an individual described in Subsection (2)(b)(ii):

1992 (a) has been convicted under state or federal law of:

1993 (i) a felony; or

1994 (ii) after December 3, 2018, a misdemeanor for drug distribution; ~~[or]~~

1995 (b) is younger than 21 years old~~[-];~~ or

1996 (c) after the effective date of this bill until January 1, 2023, is actively serving as a  
 1997 legislator.

1998 (5) If an applicant for a medical cannabis pharmacy license under this section holds a  
 1999 license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 4, Chapter 41a,

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2000 Cannabis Production Establishments, the department:

2001 (a) shall consult with the Department of Agriculture and Food regarding the applicant;  
2002 and

2003 (b) may not give preference to the applicant based on the applicant's status as a holder  
2004 of a license described in this Subsection (5).

2005 (6) The department may revoke a license under this part if:

2006 (a) the medical cannabis pharmacy does not begin operations within one year after the  
2007 day on which the department issues the initial license;

2008 (b) the medical cannabis pharmacy makes the same violation of this chapter three  
2009 times; ~~or~~

2010 (c) an individual described in Subsection (2)(b)(ii) is convicted, while the license is  
2011 active, under state or federal law of:

2012 (i) a felony; or

2013 (ii) after December 3, 2018, a misdemeanor for drug distribution~~[-];~~ or

2014 (d) the licensee fails to provide the information described in Subsection (2)(b)(vi) at  
2015 the time of application, or fails to supplement the information described in Subsection  
2016 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the  
2017 application.

2018 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,  
2019 if the municipality or county where the licensed medical cannabis pharmacy will be located  
2020 requires a local land use permit, shall submit to the department a copy of the licensee's  
2021 approved application for the land use permit within 120 days after the day on which the  
2022 department issues the license.

2023 (b) If a licensee fails to submit to the department a copy the licensee's approved land  
2024 use permit application in accordance with Subsection (7)(a), the department may revoke the  
2025 licensee's license.

2026 ~~[(7)]~~ (8) The department shall deposit the proceeds of a fee imposed by this section in



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2027 the Qualified Patient Enterprise Fund.

2028 ~~[(8)]~~ (9) The department shall begin accepting applications under this part on or before  
 2029 March 1, 2020.

2030 ~~[(9)]~~ (10) (a) The department's authority to issue a license under this section is plenary  
 2031 and is not subject to review.

2032 (b) Notwithstanding Subsection (2), the decision of the department to award a license  
 2033 to an applicant is not subject to:

2034 (i) Title 63G, Chapter 6a, Part 16, Protests; or

2035 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

2036 Section 31. Section **26-61a-302** is amended to read:

2037 **26-61a-302. Medical cannabis pharmacy owners and directors -- Criminal**  
 2038 **background checks.**

2039 (1) Each applicant ~~[for]~~ to whom the department issues a notice of intent to award a  
 2040 license to operate as a medical cannabis pharmacy shall submit, ~~[at the time of application]~~  
 2041 before the department may award the license, from each individual who has a financial or  
 2042 voting interest of 2% or greater in the applicant or who has the power to direct or cause the  
 2043 management or control of the applicant:

2044 (a) a fingerprint card in a form acceptable to the Department of Public Safety;

2045 (b) a signed waiver in accordance with Subsection ~~53-10-108~~(4) acknowledging the  
 2046 registration of the individual's fingerprints in the Federal Bureau of Investigation Next  
 2047 Generation Identification System's Rap Back Service; and

2048 (c) consent to a fingerprint background check by:

2049 (i) the Bureau of Criminal Identification; and

2050 (ii) the Federal Bureau of Investigation.

2051 (2) The Bureau of Criminal Identification shall:

2052 (a) check the fingerprints the applicant submits under Subsection (1) against the  
 2053 applicable state, regional, and national criminal records databases, including the Federal

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2054 Bureau of Investigation Next Generation Identification System;  
2055 (b) report the results of the background check to the department;  
2056 (c) maintain a separate file of fingerprints that applicants submit under Subsection (1)  
2057 for search by future submissions to the local and regional criminal records databases, including  
2058 latent prints;  
2059 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
2060 Generation Identification System's Rap Back Service for search by future submissions to  
2061 national criminal records databases, including the Next Generation Identification System and  
2062 latent prints; and  
2063 (e) establish a privacy risk mitigation strategy to ensure that the department only  
2064 receives notifications for an individual with whom the department maintains an authorizing  
2065 relationship.  
2066 (3) The department shall:  
2067 (a) assess an individual who submits fingerprints under Subsection (1) a fee in an  
2068 amount that the department sets in accordance with Section 63J-1-504 for the services that the  
2069 Bureau of Criminal Identification or another authorized agency provides under this section; and  
2070 (b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal  
2071 Identification.  
2072 Section 32. Section 26-61a-304 is amended to read:  
2073 **26-61a-304. Operating plan.**  
2074 A person applying for a medical cannabis pharmacy license shall submit to the  
2075 department a proposed operation plan for the medical cannabis pharmacy that complies with  
2076 this section and that includes:  
2077 (1) a description of the physical characteristics of the proposed facility, including a  
2078 floor plan and an architectural elevation;  
2079 (2) a description of the credentials and experience of:  
2080 (a) each officer, director, or owner of the proposed medical cannabis pharmacy; and

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2081 (b) any highly skilled or experienced prospective employee;

2082 (3) the medical cannabis pharmacy's employee training standards;

2083 (4) a security plan;

2084 (5) a description of the medical cannabis pharmacy's inventory control system,

2085 including a plan to make the inventory control system compatible with the state electronic

2086 verification system; ~~[and]~~

2087 (6) storage protocols, both short- and long-term, to ensure that cannabis is stored in a

2088 manner that is sanitary and preserves the integrity of the cannabis~~[-]~~; and

2089 (7) a description of the proposed medical cannabis pharmacy's strategic plan for

2090 opening the medical cannabis pharmacy, including gauging appropriate timing based on:

2091 (a) the supply of medical cannabis and medical cannabis products, in consultation with

2092 the Department of Agriculture and Food; and

2093 (b) the quantity and condition of the population of medical cannabis cardholders, in

2094 consultation with the department.

2095 Section 33. Section **26-61a-305** is amended to read:

2096 **26-61a-305. Maximum number of licenses -- Home delivery medical cannabis**

2097 **pharmacies.**

2098 (1) (a) Except as provided in ~~[Subsection]~~ Subsections (1)(b) or (d), if a sufficient

2099 number of applicants apply, the department [may not] shall issue [more than seven] 14 medical

2100 cannabis pharmacy licenses in accordance with this section.

2101 ~~[(b) (i) In addition to the licenses described in Subsection (1)(a), the department shall~~

2102 ~~issue an eighth license if the state central fill medical cannabis pharmacy:]~~

2103 ~~[(A) is not operational by January 1, 2021; or]~~

2104 ~~[(B) ceases operations after January 1, 2021.]~~

2105 ~~[(ii) In addition to the licenses described in Subsections (1)(a) and (1)(b)(i), the~~

2106 ~~department shall issue a ninth license if the state central fill medical cannabis pharmacy:]~~

2107 ~~[(A) is not operational by July 1, 2021; or]~~

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2108 ~~[(B) ceases operations after July 1, 2021.]~~

2109 ~~[(iii) In addition to the licenses described in Subsections (1)(a), (1)(b)(i), and (1)(b)(ii),~~

2110 ~~the department shall issue a tenth license if the state central fill medical cannabis pharmacy:]~~

2111 ~~[(A) is not operational by January 1, 2022; or]~~

2112 ~~[(B) ceases operations after January 1, 2022.]~~

2113 ~~[(iv) The department shall issue the licenses described in Subsection (1)(b)(i), (ii), and~~

2114 ~~(iii), if a final order of a court enjoins or invalidates the operation of the state central fill~~

2115 ~~medical cannabis pharmacy:]~~

2116 (b) If fewer than 14 qualified applicants apply for a medical cannabis pharmacy

2117 license, the department shall issue a medical cannabis pharmacy license to each qualified

2118 applicant.

2119 (c) The department may issue the licenses described in Subsection (1)(a) in two phases

2120 in accordance with this Subsection (1)(c).

2121 (i) Using one procurement process, the department may issue eight licenses to an initial

2122 group of medical cannabis pharmacies and six licenses to a second group of medical cannabis

2123 pharmacies.

2124 (ii) If the department issues licenses in two phases in accordance with this Subsection

2125 (1)(c), the department shall:

2126 (A) divide the state into no less than four geographic regions;

2127 (B) issue at least one license in each geographic region during each phase of issuing

2128 licenses; and

2129 (C) complete the process of issuing medical cannabis pharmacy licenses no later than

2130 July 1, 2020.

2131 (d) (i) The department may issue licenses to operate a medical cannabis pharmacy in

2132 addition to the licenses described in Subsection (1)(a) if the department determines, in

2133 consultation with the Department of Agriculture and Food and after an annual or more frequent

2134 analysis of the current and anticipated market for medical cannabis, that each additional license

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2135 is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical  
 2136 cannabis cardholders.

2137 (ii) The department shall:

2138 (A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
 2139 make rules to establish criteria and processes for the consultation, analysis, and application for  
 2140 a license described in Subsection (1)(d)(i);

2141 (B) before November 30, 2020, report on the rules described in Subsection  
 2142 (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

2143 (C) report to the Executive Appropriations Committee of the Legislature before each  
 2144 time the department issues an additional license under Subsection (1)(d)(i) regarding the results  
 2145 of the consultation and analysis described in Subsection (1)(d)(i) and the application of the  
 2146 criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

2147 (2) (a) If there are more qualified applicants than there are available licenses for  
 2148 medical cannabis pharmacies, the department shall:

2149 ~~[(a)]~~ (i) evaluate each applicant and award the license to the applicant that best  
 2150 demonstrates:

2151 ~~[(i)]~~ (A) experience with establishing and successfully operating a business that  
 2152 involves complying with a regulatory environment, tracking inventory, and training, evaluating,  
 2153 and monitoring employees;

2154 ~~[(ii)]~~ (B) an operating plan that will best ensure the safety and security of patrons and  
 2155 the community;

2156 ~~[(iii)]~~ (C) positive connections to the local community;

2157 ~~[(iv)]~~ (D) the suitability of the proposed location and the location's accessibility for  
 2158 qualifying patients; ~~and~~

2159 ~~[(v)]~~ (E) the extent to which the applicant can reduce the cost of cannabis or cannabis  
 2160 products for patients; and

2161 (F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively

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2162 high likelihood of success; and

2163 ~~[(b)]~~ (ii) ensure a geographic dispersal among licensees that is sufficient to reasonably  
2164 maximize access to the largest number of medical cannabis cardholders.

2165 (b) In making the evaluation described in Subsection (2)(a), the department may give  
2166 increased consideration to applicants who indicate a willingness to:

2167 (i) operate as a home delivery medical cannabis pharmacy that accepts electronic  
2168 medical cannabis orders that the state central patient portal facilitates; and

2169 (ii) accept payments through:

2170 (A) a payment provider that the Division of Finance approves, in consultation with the  
2171 state treasurer, in accordance with Section 26-61a-603; or

2172 (B) a financial institution in accordance with Subsection 26-61a-603(4).

2173 (3) The department may conduct a face-to-face interview with an applicant for a  
2174 license that the department evaluates under Subsection (2).

2175 (4) (a) The department may designate a medical cannabis pharmacy as a home delivery  
2176 medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's  
2177 operating plan demonstrates the functional and technical ability to:

2178 (i) safely conduct transactions for medical cannabis shipments;

2179 (ii) accept electronic medical cannabis orders that the state central patient portal  
2180 facilitates; and

2181 (iii) accept payments through:

2182 (A) a payment provider that the Division of Finance approves, in consultation with the  
2183 state treasurer, in accordance with Section 26-61a-603; or

2184 (B) a financial institution in accordance with Subsection 26-61a-603(4).

2185 (b) An applicant seeking a designation as a home delivery medical cannabis pharmacy  
2186 shall identify in the applicant's operating plan any information relevant to the department's  
2187 evaluation described in Subsection (4)(a), including:

2188 (i) the name and contact information of the payment provider;



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2189 (ii) the nature of the relationship between the prospective licensee and the payment  
 2190 provider;

2191 (iii) the processes of the following to safely and reliably conduct transactions for  
 2192 medical cannabis shipments:

2193 (A) the prospective licensee; and

2194 (B) the electronic payment provider or the financial institution described in Subsection  
 2195 (4)(a)(iii); and

2196 (iv) the ability of the licensee to comply with the department's rules regarding the  
 2197 secure transportation and delivery of medical cannabis or medical cannabis product to a  
 2198 medical cannabis cardholder.

2199 (c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy  
 2200 that the department designates as a home delivery medical cannabis pharmacy may deliver  
 2201 medical cannabis shipments in accordance with this chapter.

2202 Section 34. Section **26-61a-401** is amended to read:

2203 **26-61a-401. Medical cannabis pharmacy agent -- Registration.**

2204 (1) An individual may not serve as a medical cannabis pharmacy agent of a medical  
 2205 cannabis pharmacy unless the department registers the individual as a medical cannabis  
 2206 pharmacy agent.

2207 (2) Except as provided in Section ~~26-61a-403~~, ~~[the following individuals, regardless of~~  
 2208 ~~the individual's status as]~~ a qualified medical provider~~;~~ may not act as a medical cannabis  
 2209 pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis  
 2210 pharmacy, or have the power to direct or cause the management or control of a medical  
 2211 cannabis pharmacy~~;~~.

2212 ~~[(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse~~  
 2213 ~~Practice Act;]~~

2214 ~~[(b) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or~~  
 2215 ~~Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or]~~

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2216 ~~[(c) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician~~  
 2217 ~~Assistant Act.]~~

2218 (3) (a) The department shall, within 15 days after the day on which the department  
 2219 receives a complete application from a medical cannabis pharmacy on behalf of a prospective  
 2220 medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent  
 2221 registration card to the prospective agent if the medical cannabis pharmacy:

2222 (i) provides to the department:

2223 (A) the prospective agent's name and address;

2224 (B) the name and location of the licensed medical cannabis pharmacy where the  
 2225 prospective agent seeks to act as the medical cannabis pharmacy agent; and

2226 (C) the submission required under Subsection (3)(b); and

2227 (ii) pays a fee to the department in an amount that, subject to Subsection

2228 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

2229 (b) ~~[Each]~~ Except for an applicant reapplying for a medical cannabis pharmacy agent  
 2230 registration card within less than one year after the expiration of the applicant's previous  
 2231 medical cannabis pharmacy agent registration card, each prospective agent described in  
 2232 Subsection (3)(a) shall:

2233 (i) submit to the department:

2234 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

2235 (B) a signed waiver in accordance with Subsection [53-10-108\(4\)](#) acknowledging the  
 2236 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next

2237 Generation Identification System's Rap Back Service; and

2238 (ii) consent to a fingerprint background check by:

2239 (A) the Bureau of Criminal Identification; and

2240 (B) the Federal Bureau of Investigation.

2241 (c) The Bureau of Criminal Identification shall:

2242 (i) check the fingerprints the prospective agent submits under Subsection (3)(b) against

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2243 the applicable state, regional, and national criminal records databases, including the Federal  
2244 Bureau of Investigation Next Generation Identification System;

2245 (ii) report the results of the background check to the department;

2246 (iii) maintain a separate file of fingerprints that prospective agents submit under  
2247 Subsection (3)(b) for search by future submissions to the local and regional criminal records  
2248 databases, including latent prints;

2249 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
2250 Generation Identification System's Rap Back Service for search by future submissions to  
2251 national criminal records databases, including the Next Generation Identification System and  
2252 latent prints; and

2253 (v) establish a privacy risk mitigation strategy to ensure that the department only  
2254 receives notifications for an individual with whom the department maintains an authorizing  
2255 relationship.

2256 (d) The department shall:

2257 (i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an  
2258 amount that the department sets in accordance with Section 63J-1-504 for the services that the  
2259 Bureau of Criminal Identification or another authorized agency provides under this section; and

2260 (ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal  
2261 Identification.

2262 (4) The department shall designate, on an individual's medical cannabis pharmacy  
2263 agent registration card the name of the medical cannabis pharmacy where the individual is  
2264 registered as an agent.

2265 (5) A medical cannabis pharmacy agent shall comply with a certification standard that  
2266 the department develops in collaboration with the Division of Occupational and Professional  
2267 Licensing and the Board of Pharmacy, or a third-party certification standard that the department  
2268 designates by rule, in collaboration with the Division of Occupational and Professional  
2269 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah

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2270 Administrative Rulemaking Act.

2271 (6) The department shall ensure that the certification standard described in Subsection  
2272 (5) includes training in:

2273 (a) Utah medical cannabis law; and

2274 (b) medical cannabis pharmacy best practices.

2275 (7) The department may revoke the medical cannabis pharmacy agent registration card  
2276 of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual  
2277 who:

2278 (a) violates the requirements of this chapter; or

2279 (b) is convicted under state or federal law of:

2280 (i) a felony; or

2281 (ii) after December 3, 2018, a misdemeanor for drug distribution.

2282 (8) (a) A medical cannabis pharmacy agent registration card expires two years after the  
2283 day on which the department issues or renews the card.

2284 (b) A medical cannabis pharmacy agent may renew the agent's registration card if the  
2285 agent:

2286 (i) is eligible for a medical cannabis pharmacy agent registration card under this  
2287 section;

2288 (ii) certifies to the department in a renewal application that the information in  
2289 Subsection (3)(a) is accurate or updates the information; and

2290 (iii) pays to the department a renewal fee in an amount that:

2291 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with  
2292 Section 63J-1-504; and

2293 (B) may not exceed the cost of the relatively lower administrative burden of renewal in  
2294 comparison to the original application process.

2295 Section 35. Section 26-61a-403 is amended to read:

2296 **26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**

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2297 (1) (a) A medical cannabis pharmacy:  
2298 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy  
2299 Practice Act, as a pharmacy medical provider;  
2300 (ii) may employ a physician who has the authority to write a prescription and is  
2301 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah  
2302 Osteopathic Medical Practice Act, as a pharmacy medical provider;  
2303 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)  
2304 works onsite during all business hours; and  
2305 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as  
2306 the pharmacist-in-charge to oversee the operation of and generally supervise the medical  
2307 cannabis pharmacy.  
2308 (b) An individual may not serve as a pharmacy medical provider unless the department  
2309 registers the individual as a pharmacy medical provider in accordance with Subsection (2).  
2310 (2) (a) The department shall, within 15 days after the day on which the department  
2311 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy  
2312 medical provider, register and issue a pharmacy medical provider registration card to the  
2313 prospective pharmacy medical provider if the medical cannabis pharmacy:  
2314 (i) provides to the department:  
2315 (A) the prospective pharmacy medical provider's name and address;  
2316 (B) the name and location of the licensed medical cannabis pharmacy where the  
2317 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;  
2318 (C) a report detailing the completion of the continuing education requirement described  
2319 in Subsection (3); and  
2320 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is  
2321 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the  
2322 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical  
2323 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

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2324 (ii) pays a fee to the department in an amount that, subject to Subsection

2325 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

2326 (b) The department may not register a qualified medical provider or a state central [fH]

2327 patient portal medical provider as a pharmacy medical provider.

2328 (3) (a) A pharmacy medical provider shall complete the continuing education described  
2329 in this Subsection (3) in the following amounts:

2330 (i) as a condition precedent to registration, four hours; and

2331 (ii) as a condition precedent to renewal of the registration, four hours every two years.

2332 (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

2333 (i) complete continuing education:

2334 (A) regarding the topics described in Subsection (3)(d); and

2335 (B) offered by the department under Subsection (3)(c) or an accredited or approved  
2336 continuing education provider that the department recognizes as offering continuing education  
2337 appropriate for the medical cannabis pharmacy practice; and

2338 (ii) make a continuing education report to the department in accordance with a process  
2339 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah  
2340 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and  
2341 Professional Licensing and:

2342 (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b,  
2343 Pharmacy Practice Act, the Board of Pharmacy;

2344 (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical  
2345 Practice Act, the Physicians Licensing Board; and

2346 (C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah  
2347 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

2348 (c) The department may, in consultation with the Division of Occupational and  
2349 Professional Licensing, develop the continuing education described in this Subsection (3).

2350 (d) The continuing education described in this Subsection (3) may discuss:



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2351 (i) the provisions of this chapter;  
 2352 (ii) general information about medical cannabis under federal and state law;  
 2353 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,  
 2354 including risks and benefits;  
 2355 (iv) recommendations for medical cannabis as it relates to the continuing care of a  
 2356 patient in pain management, risk management, potential addiction, and palliative care; or  
 2357 (v) best practices for recommending the form and dosage of a medical cannabis  
 2358 product based on the qualifying condition underlying a medical cannabis recommendation.  
 2359 (4) (a) A pharmacy medical provider registration card expires two years after the day  
 2360 on which the department issues or renews the card.  
 2361 (b) A pharmacy medical provider may renew the provider's registration card if the  
 2362 provider:  
 2363 (i) is eligible for a pharmacy medical provider registration card under this section;  
 2364 (ii) certifies to the department in a renewal application that the information in  
 2365 Subsection (2)(a) is accurate or updates the information;  
 2366 (iii) submits a report detailing the completion of the continuing education requirement  
 2367 described in Subsection (3); and  
 2368 (iv) pays to the department a renewal fee in an amount that:  
 2369 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with  
 2370 Section 63J-1-504; and  
 2371 (B) may not exceed the cost of the relatively lower administrative burden of renewal in  
 2372 comparison to the original application process.  
 2373 Section 36. Section 26-61a-502 is amended to read:  
 2374 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**  
 2375 **Reporting -- Form of cannabis or cannabis product.**  
 2376 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this  
 2377 chapter:

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(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) a medical cannabis card; and

(ii) a corresponding valid form of photo identification [~~that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card~~].

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(2) A medical cannabis pharmacy may not dispense:

(a) to a medical cannabis cardholder in any one [12] 28-day period, more than the lesser of:

~~[(i) an amount sufficient to provide 14 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or]~~

~~[(ii) (A) 56 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or]~~

~~[(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 10 grams of total composite tetrahydrocannabinol;]~~

~~[(b) to a medical cannabis cardholder whose primary residence is located more than 100 miles from the nearest medical cannabis pharmacy or local health department, in any one 28-day period, more than the lesser of:]~~

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2405 (i) an amount sufficient to provide 30 days of treatment based on the dosing parameters  
2406 that the relevant qualified medical provider recommends; or

2407 (ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage  
2408 form and that carries a label clearly displaying the amount of tetrahydrocannabinol and  
2409 cannabidiol in the cannabis; or

2410 (B) an amount of cannabis products that is in a medicinal dosage form and that  
2411 contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or

2412 ~~[(c)]~~ (b) to an individual whose qualified medical provider did not recommend dosing  
2413 parameters, until the individual consults with the pharmacy medical provider in accordance  
2414 with Subsection (4), any cannabis or cannabis products.

2415 (3) An individual with a medical cannabis card may not purchase:

2416 (a) more cannabis or cannabis products than the amounts designated in Subsection (2)  
2417 in any one ~~[12-day]~~ 28-day period; or

2418 (b) if the relevant qualified medical provider did not recommend dosing parameters,  
2419 until the individual consults with the pharmacy medical provider in accordance with  
2420 Subsection (4), any cannabis or cannabis products.

2421 (4) If a qualified medical provider recommends treatment with medical cannabis or a  
2422 cannabis product but does not provide dosing parameters:

2423 (a) the qualified medical provider shall document in the recommendation:

2424 (i) an evaluation of the qualifying condition underlying the recommendation;

2425 (ii) prior treatment attempts with cannabis and cannabis products; and

2426 (iii) the patient's current medication list; and

2427 (b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal  
2428 dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider  
2429 shall:

2430 (i) review pertinent medical records, including the qualified medical provider  
2431 documentation described in Subsection (4)(a); and

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2432 (ii) unless the pertinent medical records show dosing parameters from a state central  
2433 patient portal medical provider in accordance with Subsection (5), after completing the review  
2434 described in Subsection (4)(b)(i) and consulting with the recommending qualified medical  
2435 provider as needed, determine the best course of treatment through consultation with the  
2436 cardholder regarding:

2437 (A) the patient's qualifying condition underlying the recommendation from the  
2438 qualified medical provider;

2439 (B) indications for available treatments;

2440 (C) dosing parameters; and

2441 (D) potential adverse reactions.

2442 (5) (a) A state central patient portal medical provider may provide the consultation and  
2443 make the determination described in Subsection (4)(b) for a medical cannabis patient  
2444 cardholder regarding an electronic order that the state central patient portal facilitates.

2445 (b) The state central patient portal medical provider described in Subsection (5)(a)  
2446 shall document the dosing parameters determined under Subsection (5)(a) in the pertinent  
2447 medical records.

2448 ~~[(5)]~~ (6) A medical cannabis pharmacy shall:

2449 (a) (i) access the state electronic verification system before dispensing cannabis or a  
2450 cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,  
2451 where applicable, the associated patient has met the maximum amount of cannabis or cannabis  
2452 products described in Subsection (2); and

2453 (ii) if the verification in Subsection ~~[(5)]~~ (6)(a)(i) indicates that the individual has met  
2454 the maximum amount described in Subsection (2):

2455 (A) decline the sale; and

2456 (B) notify the qualified medical provider who made the underlying recommendation;

2457 (b) submit a record to the state electronic verification system each time the medical  
2458 cannabis pharmacy dispenses cannabis or a cannabis product to a medical cannabis cardholder;

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2459 (c) package any cannabis or cannabis product that is in a blister pack in a container  
 2460 that:

2461 (i) complies with Subsection 4-41a-602(2);

2462 (ii) is tamper-resistant and tamper-evident; and

2463 (iii) opaque; and

2464 (d) for a product that is a cube that is designed for ingestion through chewing or  
 2465 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks  
 2466 of over-consumption.

2467 ~~[(6)]~~ (7) (a) Except as provided in Subsection ~~[(6)]~~ (7)(b), a medical cannabis  
 2468 pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device  
 2469 that is intentionally designed or constructed to resemble a cigarette.

2470 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms  
 2471 cannabis material into a vapor without the use of a flame and that delivers cannabis to an  
 2472 individual's respiratory system.

2473 ~~[(7)]~~ (8) A medical cannabis pharmacy may not give, at no cost, a product that the  
 2474 medical cannabis pharmacy is allowed to sell under Subsection (1).

2475 ~~[(8)]~~ (9) The department may impose a uniform fee on each medical cannabis  
 2476 cardholder transaction in a medical cannabis pharmacy in an amount that, subject to Subsection  
 2477 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

2478 Section 37. Section 26-61a-503 is amended to read:

2479 **26-61a-503. Partial filling.**

2480 (1) As used in this section, "partially fill" means to provide less than the full amount of  
 2481 cannabis or cannabis product that the qualified medical provider recommends, if the qualified  
 2482 medical provider recommended specific dosing parameters.

2483 (2) A pharmacy medical provider may partially fill a recommendation for a medical  
 2484 cannabis treatment at the request of the qualified medical provider who issued the medical  
 2485 cannabis treatment recommendation or the medical cannabis cardholder.

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(3) The department shall make rules, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing parameters for the partial fill under Subsection 26-61a-502(4) or (5); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Section 38. Section 26-61a-505 is amended to read:

**26-61a-505. Advertising.**

(1) Except as provided in Subsections (2) and (3), a medical cannabis pharmacy may not advertise in any medium.

(2) ~~[A]~~ Notwithstanding any municipal or county ordinance prohibiting signage, a medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that;

(a) includes only:

~~[(a)]~~ (i) the medical cannabis pharmacy's name and hours of operation; and

~~[(b)]~~ (ii) a green cross[-];

(b) does not exceed four feet by five feet in size; and



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2513 (c) complies with local ordinances regulating signage.

2514 (3) A medical cannabis pharmacy may maintain a website that includes information  
2515 about:

2516 (a) the location and hours of operation of the medical cannabis pharmacy;

2517 (b) a product or service available at the medical cannabis pharmacy;

2518 (c) personnel affiliated with the medical cannabis pharmacy;

2519 (d) best practices that the medical cannabis pharmacy upholds; and

2520 (e) educational material related to the medical use of cannabis.

2521 Section 39. Section **26-61a-506** is amended to read:

2522 **26-61a-506. Cannabis, cannabis product, or medical cannabis device**  
2523 **transportation.**

2524 (1) Only the following individuals may transport cannabis in a medicinal dosage form,  
2525 a cannabis product in a medicinal dosage form, or a medical cannabis device under this  
2526 chapter:

2527 (a) a registered medical cannabis pharmacy agent;

2528 ~~[(b) a registered state central fill agent;]~~

2529 ~~[(c)] (b) a registered medical cannabis courier [for a state central fill shipment~~  
2530 ~~described in Section 26-61a-605] agent; or~~

2531 ~~[(d)] (c) a medical cannabis cardholder who is transporting a medical cannabis~~  
2532 ~~treatment that the cardholder is authorized to transport.~~

2533 (2) Except for an individual with a valid medical cannabis card under this chapter who  
2534 is transporting a medical cannabis treatment that the cardholder is authorized to transport, an  
2535 individual described in Subsection (1) shall possess a transportation manifest that:

2536 (a) includes a unique identifier that links the cannabis, cannabis product, or medical  
2537 cannabis device to a relevant inventory control system;

2538 (b) includes origin and destination information for cannabis, a cannabis product, or a  
2539 medical cannabis device that the individual is transporting; and

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(c) identifies the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that the cannabis, cannabis product, or medical cannabis device remains safe for human consumption.

(b) The transportation described in Subsection ~~[(3)(a)]~~ (1)(a) is limited to transportation~~[(i)]~~ between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy; ~~and~~ or

(ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

~~[(ii) between the state central fill medical cannabis pharmacy and:]~~

~~[(A) another state central fill medical cannabis pharmacy location; or]~~

~~[(B) a local health department.]~~

(4) (a) It is unlawful for a registered medical cannabis pharmacy agent~~;~~ or a registered ~~[state central fill] medical cannabis courier agent[; or a courier described in Section~~ 26-61a-605] to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent ~~[or courier]~~ who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the individual described in Subsection (4)(a) is transporting more cannabis,

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2567 cannabis product, or medical cannabis devices than the manifest identifies, except for a de  
 2568 minimis administrative error:

2569 (i) this chapter does not apply; and

2570 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled  
 2571 Substances Act.

2572 Section 40. Section **26-61a-507** is amended to read:

2573 **26-61a-507. Local control.**

2574 ~~[(1)(a)(i) Except as provided in Subsection (1)(a)(ii), to be eligible to obtain or~~  
 2575 ~~maintain a license under Section 26-61a-301, a person shall demonstrate that the intended~~  
 2576 ~~medical cannabis pharmacy location is located at least:]~~

2577 ~~[(A) 600 feet from a community location's property boundary following the shortest~~  
 2578 ~~route of ordinary pedestrian travel;]~~

2579 ~~[(B) 200 feet from the patron entrance to the community location's property boundary;~~  
 2580 ~~and]~~

2581 ~~[(C) 600 feet from an area zoned primarily residential.]~~

2582 ~~[(ii) A municipal or county land use authority may recommend in writing that the~~  
 2583 ~~department waive the community location proximity requirement described in Subsection~~  
 2584 ~~(1)(a)(i).]~~

2585 (1) The operation of a medical cannabis pharmacy:

2586 (a) shall be a permitted use:

2587 (i) in any zone, overlay, or district within the municipality or county except for a  
 2588 primarily residential zone; and

2589 (ii) on land that the municipality or county has not zoned; and

2590 (b) is subject to the land use regulations, as defined in Sections 10-9a-103 and  
 2591 17-27a-103, that apply in the underlying zone.

2592 ~~[(b)(i)]~~ (2) A municipality or county may not [deny or revoke a land use permit to  
 2593 operate a medical cannabis pharmacy]:

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(a) on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis[~~-(ii) A municipality or county may not~~], deny or revoke;

(i) a land use permit, as that term is defined in Sections [10-9a-103](#) and [17-27a-103](#), to operate a medical cannabis pharmacy; or

(ii) a business license to operate a medical cannabis pharmacy [~~on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis~~];

(b) require a certain distance between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy;

(ii) a cannabis production establishment;

(iii) a retail tobacco specialty business, as that term is defined in Section [26-62-103](#); or

(iv) an outlet, as that term is defined in Section [32B-1-202](#); or

(c) in accordance with Subsections [10-9a-509\(1\)](#) and [17-27a-508\(1\)](#), enforce a land use regulation against a medical cannabis pharmacy that was not in effect on the day on which the medical cannabis pharmacy submitted a complete land use application.

[~~(2)~~] (3) A municipality or county may enact an ordinance that:

(a) is not in conflict with this chapter; and

(b) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.

(4) An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application process described in:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section [10-9a-528](#); and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section [17-27a-525](#).

Section 41. Section [26-61a-601](#) is repealed and reenacted to read:

**S.B. 1002****Enrolled Copy****26-61a-601. State central patient portal -- Department duties.**

(1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as described in this section.

(2) The state central patient portal shall:

(a) authenticate each user to ensure the user is a valid medical cannabis patient cardholder;

(b) allow a medical cannabis patient cardholder to:

(i) obtain and download the cardholder's medical cannabis card;

(ii) review the cardholder's medical cannabis purchase history; and

(iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection [26-61a-201\(10\)](#);

(c) if the cardholder's qualified medical provider recommended the use of medical cannabis without providing dosing parameters and the cardholder has not yet received the counseling or consultation required in Subsection [26-61a-502\(4\)](#):

(i) alert the cardholder of the outstanding need for consultation; and

(ii) provide the cardholder with access to the contact information for each state central patient portal medical provider and each pharmacy medical provider;

(d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis order to a home delivery medical cannabis pharmacy;

(e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection [26-61a-501\(2\)\(a\)](#) or (b);

(f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and

(g) allow the patient to designate up to two caregivers who may receive a medical

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2648 cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in  
 2649 accordance with this chapter.

2650 (3) The department may make rules in accordance with Title 63G, Chapter 3, Utah  
 2651 Administrative Rulemaking Act, to implement the state central patient portal.

2652 Section 42. Section **26-61a-602** is repealed and reenacted to read:

2653 **26-61a-602. State central patient portal medical provider.**

2654 (1) In relation to the state central patient portal:

2655 (a) the department may only employ, as a state central patient portal medical provider:

2656 (i) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act; or

2657 (ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title  
 2658 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

2659 (b) if the department employs a state central patient portal medical provider, ensure  
 2660 that a state central patient portal medical provider is available during normal business hours.

2661 (2) A state central patient portal medical provider may:

2662 (a) provide consultations to medical cannabis cardholders and qualified medical  
 2663 providers; and

2664 (b) determine dosing parameters in accordance with Subsection **26-61a-502**(5).

2665 Section 43. Section **26-61a-603** is repealed and reenacted to read:

2666 **26-61a-603. Payment provider for electronic medical cannabis transactions.**

2667 (1) A cannabis production establishment seeking to use a payment provider, a medical  
 2668 cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy shall submit to  
 2669 the Division of Finance and the state treasurer information regarding the payment provider the  
 2670 prospective licensee will use to conduct financial transactions related to medical cannabis,  
 2671 including:

2672 (a) the name and contact information of the payment provider;

2673 (b) the nature of the relationship between the establishment, pharmacy, or prospective  
 2674 pharmacy and the payment provider; and



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(c) for a prospective home delivery medical cannabis pharmacy, the processes the prospective licensee and the payment provider have in place to safely and reliably conduct financial transactions for medical cannabis shipments.

(2) The Division of Finance shall, in consultation with the state treasurer:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish standards for identifying payment providers that demonstrate the functional and technical ability to safely conduct financial transactions related to medical cannabis, including medical cannabis shipments;

(b) review submissions the Division of Finance and the state treasurer receive under Subsection (1);

(c) approve a payment provider that meets the standards described in Subsection (2)(a); and

(d) establish a list of approved payment providers.

(3) Any licensed cannabis production establishment, licensed medical cannabis pharmacy, or medical cannabis courier may use a payment provider that the Division of Finance approves, in consultation with the state treasurer, to conduct transactions related to the establishment's, pharmacy's, or courier's respective medical cannabis business.

(4) If Congress passes legislation that allows a cannabis-related business to facilitate payments through or deposit funds in a financial institution, a cannabis production establishment or a medical cannabis pharmacy may facilitate payments through or deposit funds in a financial institution in addition to or instead of a payment provider that the Division of Finance approves, in consultation with the state treasurer, under this section.

Section 44. Section **26-61a-604** is repealed and reenacted to read:

**26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.**

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home

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delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(ii).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(ii):

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2729 (a) has been convicted under state or federal law of:  
2730 (i) a felony; or  
2731 (ii) after the effective date of this bill, a misdemeanor for drug distribution; or  
2732 (b) is younger than 21 years old.  
2733 (6) The department may revoke a license under this part if:  
2734 (a) the medical cannabis courier does not begin operations within one year after the day  
2735 on which the department issues the initial license;  
2736 (b) the medical cannabis courier makes the same violation of this chapter three times;  
2737 or  
2738 (c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is  
2739 active, under state or federal law of:  
2740 (i) a felony; or  
2741 (ii) after the effective date of this bill, a misdemeanor for drug distribution.  
2742 (7) The department shall deposit the proceeds of a fee imposed by this section in the  
2743 Qualified Patient Enterprise Fund.  
2744 (8) The department shall begin accepting applications under this section on or before  
2745 July 1, 2020.  
2746 (9) The department's authority to issue a license under this section is plenary and is not  
2747 subject to review.  
2748 (10) Each applicant for a license as a medical cannabis courier shall submit, at the time  
2749 of application, from each individual who has a financial or voting interest of 2% or greater in  
2750 the applicant or who has the power to direct or cause the management or control of the  
2751 applicant:  
2752 (a) a fingerprint card in a form acceptable to the Department of Public Safety;  
2753 (b) a signed waiver in accordance with Subsection [53-10-108](#)(4) acknowledging the  
2754 registration of the individual's fingerprints in the Federal Bureau of Investigation Next  
2755 Generation Identification System's Rap Back Service; and

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2756 (c) consent to a fingerprint background check by:  
2757 (i) the Bureau of Criminal Identification; and  
2758 (ii) the Federal Bureau of Investigation.  
2759 (11) The Bureau of Criminal Identification shall:  
2760 (a) check the fingerprints the applicant submits under Subsection (10) against the  
2761 applicable state, regional, and national criminal records databases, including the Federal  
2762 Bureau of Investigation Next Generation Identification System;  
2763 (b) report the results of the background check to the department;  
2764 (c) maintain a separate file of fingerprints that applicants submit under Subsection (10)  
2765 for search by future submissions to the local and regional criminal records databases, including  
2766 latent prints;  
2767 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
2768 Generation Identification System's Rap Back Service for search by future submissions to  
2769 national criminal records databases, including the Next Generation Identification System and  
2770 latent prints; and  
2771 (e) establish a privacy risk mitigation strategy to ensure that the department only  
2772 receives notifications for an individual with whom the department maintains an authorizing  
2773 relationship.  
2774 (12) The department shall:  
2775 (a) assess an individual who submits fingerprints under Subsection (10) a fee in an  
2776 amount that the department sets in accordance with Section 63J-1-504 for the services that the  
2777 Bureau of Criminal Identification or another authorized agency provides under this section; and  
2778 (b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal  
2779 Identification.  
2780 (13) The department shall renew a license under this section every year if, at the time  
2781 of renewal:  
2782 (a) the licensee meets the requirements of this section; and

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(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

Section 45. Section **26-61a-605** is amended to read:

**26-61a-605. Medical cannabis shipment transportation.**

(1) The ~~[state central fill medical cannabis pharmacy]~~ department shall ensure that ~~[the state central fill]~~ each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner~~[-, cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, and a medical cannabis device to each local health department in the state within two business days after the day on which the state central fill medical cannabis pharmacy receives a request for a state central fill shipment resulting from a recommendation of a qualified medical provider under Section 26-61a-603].~~

(2) (a) ~~[The department]~~ A home delivery medical cannabis pharmacy may contract with a ~~[private entity for the entity to serve as a courier for the state central fill medical cannabis pharmacy, delivering state central fill]~~ licensed medical cannabis courier to deliver medical cannabis shipments to ~~[local health departments for distribution to medical cannabis~~

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2810 ~~cardholders]~~ fulfill electronic medical cannabis orders that the state central patient portal  
 2811 facilitates.

2812 (b) If ~~[the department]~~ a home delivery medical cannabis pharmacy enters into a  
 2813 contract described in Subsection (2)(a), the ~~[department]~~ pharmacy shall:

2814 [(i) ~~issue the contract described in Subsection (2)(a) in accordance with Title 63G,~~  
 2815 ~~Chapter 6a, Utah Procurement Code;~~]

2816 [(ii) ~~(i) impose security and personnel requirements on the [contracted private entity]~~  
 2817 medical cannabis courier sufficient to ensure the security and safety of ~~[state central fil]~~  
 2818 medical cannabis shipments; and

2819 [(iii) ~~(ii) provide regular oversight of the [contracted private entity]~~ medical cannabis  
 2820 courier.

2821 (3) Except for an individual with a valid medical cannabis card who transports a  
 2822 shipment the individual receives, an individual may not transport a ~~[state central fil]~~ medical  
 2823 cannabis shipment unless the individual is:

2824 (a) a registered ~~[state central fil]~~ medical cannabis pharmacy agent; or

2825 (b) ~~[an]~~ a registered agent of the ~~[private]~~ medical cannabis courier described in  
 2826 Subsection (2).

2827 (4) An individual transporting a ~~[state central fil]~~ medical cannabis shipment under  
 2828 Subsection (3) shall possess a transportation manifest that:

2829 (a) includes a unique identifier that links the ~~[state central fil]~~ medical cannabis  
 2830 shipment to a relevant inventory control system;

2831 (b) includes origin and destination information for ~~[a state central fil]~~ the medical  
 2832 cannabis shipment the individual is transporting; and

2833 (c) indicates the departure and arrival times and locations of the individual transporting  
 2834 the ~~[state central fil]~~ medical cannabis shipment.

2835 (5) In addition to the requirements in Subsections (3) and (4), the department may  
 2836 establish by rule, in collaboration with the Division of Occupational and Professional Licensing



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and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting ~~[state central fill]~~ medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a ~~[state central fill]~~ medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 46. Section **26-61a-606** is amended to read:

**26-61a-606. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.**

(1) An individual may not serve as a ~~[local health department distribution]~~ medical cannabis courier agent unless:

(a) the individual is an employee of a ~~[local health department]~~ licensed medical cannabis courier; and

(b) the department registers the individual as a ~~[local health department distribution]~~ medical cannabis courier agent.

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(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a ~~[local health department]~~ medical cannabis courier on behalf of a ~~[prospective local health department distribution]~~ medical cannabis courier agent, register and issue a ~~[local health department distribution]~~ medical cannabis courier agent registration card to the prospective agent if the ~~[local health department]~~ medical cannabis courier:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and ~~[location]~~ address of the ~~[local health department where the prospective agent seeks to act as a local health department distribution agent]~~ medical cannabis courier; ~~[and]~~

(C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

~~[(C)]~~ (D) the submission required under Subsection (2)(b); ~~[and]~~

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution~~[-]; and~~

(iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) ~~[Each]~~ Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the

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2891 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next  
2892 Generation Identification System's Rap Back Service; and  
2893 (ii) consent to a fingerprint background check by:  
2894 (A) the Bureau of Criminal Identification; and  
2895 (B) the Federal Bureau of Investigation.  
2896 (c) The Bureau of Criminal Identification shall:  
2897 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against  
2898 the applicable state, regional, and national criminal records databases, including the Federal  
2899 Bureau of Investigation Next Generation Identification System;  
2900 (ii) report the results of the background check to the department;  
2901 (iii) maintain a separate file of fingerprints that prospective agents submit under  
2902 Subsection (2)(b) for search by future submissions to the local and regional criminal records  
2903 databases, including latent prints;  
2904 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
2905 Generation Identification System's Rap Back Service for search by future submissions to  
2906 national criminal records databases, including the Next Generation Identification System and  
2907 latent prints; and  
2908 (v) establish a privacy risk mitigation strategy to ensure that the department only  
2909 receives notifications for an individual with whom the department maintains an authorizing  
2910 relationship.  
2911 (d) The department shall:  
2912 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an  
2913 amount that the department sets in accordance with Section 63J-1-504 for the services that the  
2914 Bureau of Criminal Identification or another authorized agency provides under this section; and  
2915 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal  
2916 Identification.  
2917 (3) The department shall designate on an individual's ~~local health department~~

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2918 ~~distribution]~~ medical cannabis courier agent registration card the name of the ~~[local health~~  
 2919 ~~department]~~ medical cannabis courier where the individual is registered as an agent and each  
 2920 home delivery medical cannabis courier for which the medical cannabis courier delivers  
 2921 medical cannabis shipments.

2922 (4) (a) A ~~[local health department distribution]~~ medical cannabis courier agent shall  
 2923 comply with a certification standard that the department develops, in collaboration with the  
 2924 Division of Occupational and Professional Licensing and the Board of Pharmacy, or a  
 2925 third-party certification standard that the department designates by rule in collaboration with  
 2926 the Division of Occupational and Professional Licensing and the Board of Pharmacy and in  
 2927 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2928 (b) The department shall ensure that the certification standard described in Subsection  
 2929 (4)(a) includes training in:

- 2930 (i) Utah medical cannabis law;
- 2931 (ii) the ~~[state central fill]~~ medical cannabis ~~[pharmacy]~~ shipment process; and
- 2932 (iii) ~~[local health department distribution]~~ medical cannabis courier agent best  
 2933 practices.

2934 (5) (a) A medical cannabis courier agent registration card expires two years after the  
 2935 day on which the department issues or renews the card.

2936 (b) A medical cannabis courier agent may renew the agent's registration card if the  
 2937 agent:

- 2938 (i) is eligible for a medical cannabis courier agent registration card under this section;
- 2939 (ii) certifies to the department in a renewal application that the information in  
 2940 Subsection (2)(a) is accurate or updates the information; and
- 2941 (iii) pays to the department a renewal fee in an amount that:

2942 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with  
 2943 Section 63J-1-504; and

2944 (B) may not exceed the cost of the relatively lower administrative burden of renewal in

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2945 comparison to the original application process.

2946 ~~[(5)]~~ (6) The department may revoke or refuse to issue or renew the ~~[local health~~  
 2947 ~~department distribution]~~ medical cannabis courier agent registration card of an individual who:

2948 (a) violates the requirements of this chapter; or

2949 (b) is convicted under state or federal law of:

2950 (i) a felony; or

2951 (ii) after December 3, 2018, a misdemeanor for drug distribution.

2952 ~~[(6)]~~ (7) A ~~[local health department distribution]~~ medical cannabis courier agent ~~[who]~~  
 2953 whom the department has registered under this section shall carry the agent's ~~[local health~~  
 2954 ~~department distribution]~~ medical cannabis courier agent registration card with the agent at all  
 2955 times when:

2956 (a) the agent is on the premises of the ~~[local health department]~~ medical cannabis  
 2957 courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and

2958 (b) the agent is handling a medical cannabis shipment ~~[of cannabis or cannabis product~~  
 2959 ~~from the state central fill medical cannabis pharmacy]~~.

2960 ~~[(7)]~~ (8) If a ~~[local health department distribution]~~ medical cannabis courier agent  
 2961 handling a medical cannabis shipment ~~[of cannabis or cannabis product from the state central~~  
 2962 ~~fill medical cannabis pharmacy]~~ possesses the shipment in compliance with Subsection ~~[(6)]~~  
 2963 (7):

2964 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and

2965 (b) there is no probable cause, based solely on the agent's possession of the medical  
 2966 cannabis shipment ~~[containing medical cannabis in medicinal dosage form, a cannabis product~~  
 2967 ~~in medicinal dosage form, or a medical cannabis device,]~~ that the agent is engaging in illegal  
 2968 activity.

2969 ~~[(8)]~~ (9) (a) A ~~[local health department distribution]~~ medical cannabis courier agent  
 2970 who violates Subsection ~~[(6)]~~ (7) is:

2971 (i) guilty of an infraction; and

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2972 (ii) subject to a \$100 fine.

2973 (b) An individual who is guilty of a violation described in Subsection ~~[(8)(a)]~~ (9)(a) is  
 2974 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the  
 2975 conduct underlying the violation described in Subsection ~~[(8)(a)]~~ (9)(a).

2976 Section 47. Section **26-61a-607** is amended to read:

2977 **26-61a-607. Home delivery of medical cannabis shipments.**

2978 ~~[(1) Each local health department shall designate:]~~

2979 ~~[(a) one or more of the local health department's locations as a state central fill  
 2980 shipment distribution location; and]~~

2981 ~~[(b) a sufficient number of personnel to ensure that at least one individual is available  
 2982 at all times during business hours:]~~

2983 ~~[(i) whom the department has registered as a local health department distribution agent;  
 2984 and]~~

2985 ~~[(ii) to distribute state central fill shipments to medical cannabis cardholders in  
 2986 accordance with this section.]~~

2987 ~~[(2)]~~ (1) An individual may not ~~retrieve a~~ receive and a medical cannabis pharmacy  
 2988 agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from  
 2989 [the state central fill] a home delivery medical cannabis pharmacy [at a local health  
 2990 department] unless;

2991 (a) the individual receiving the shipment presents:

2992 ~~[(a)]~~ (i) a valid form of photo identification ~~[that is a valid United States federal- or~~  
 2993 ~~state-issued photo identification, including a driver license, a United States passport, a United~~  
 2994 ~~States passport card, or a United States military identification card]; and~~

2995 ~~[(b)]~~ (ii) a valid medical cannabis card under the same name that appears on the valid  
 2996 form of photo identification ~~[described in Subsection (2)(a).]; and~~

2997 (b) the delivery occurs at the medical cannabis cardholder's home address that is on file  
 2998 in the state electronic verification system.



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2999           ~~[(3)]~~ (2) Before a ~~[local health department distribution]~~ medical cannabis pharmacy  
 3000 agent or a medical cannabis courier agent distributes a ~~[state central fill]~~ medical cannabis  
 3001 shipment to a medical cannabis cardholder, the ~~[local health department distribution]~~ agent  
 3002 shall:

3003           (a) verify the shipment information using the state electronic verification system;  
 3004           (b) ensure that the individual satisfies the identification requirements in Subsection  
 3005 ~~[(2)]~~ (1);

3006           (c) verify that payment is complete; and  
 3007           (d) record the completion of the shipment transaction in the electronic verification  
 3008 system.

3009           ~~[(4)]~~ (3) The ~~[local health department]~~ medical cannabis courier shall:

3010           (a) (i) store each ~~[state central fill]~~ medical cannabis shipment ~~[that the local health~~  
 3011 ~~department receives,]~~ in a secure manner until the recipient medical cannabis cardholder  
 3012 [retrieves] receives the shipment or the ~~[local health department]~~ medical cannabis courier  
 3013 returns the shipment to the ~~[state central fill]~~ home delivery medical cannabis pharmacy in  
 3014 accordance with Subsection ~~[(5), in a single, secure, locked area that is equipped with a~~  
 3015 ~~security system that detects and records entry into the area]~~ (4); and

3016           (ii) ensure that only a ~~[local health department distribution]~~ medical cannabis courier  
 3017 agent is able to access the ~~[area]~~ medical cannabis shipment until the recipient medical  
 3018 cannabis cardholder receives the shipment;

3019           (b) return any ~~[unclaimed state central fill]~~ undelivered medical cannabis shipment to  
 3020 the ~~[state central fill]~~ home delivery medical cannabis pharmacy, in accordance with  
 3021 Subsection ~~[(5)(a)]~~ (4), after the ~~[local health department]~~ medical cannabis courier has  
 3022 possessed the ~~[state central fill]~~ shipment for 10 business days; and

3023           (c) return any ~~[state central fill]~~ medical cannabis shipment to the ~~[state central fill]~~  
 3024 home delivery medical cannabis pharmacy, in accordance with Subsection ~~[(5)(b)]~~ (4), if a  
 3025 medical cannabis cardholder ~~[returns]~~ refuses to accept the shipment ~~[to the local health~~

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3026 ~~department after retrieving the shipment].~~

3027 ~~[(5)] (4) (a) If a [local health department] medical cannabis courier or home delivery~~  
 3028 ~~medical cannabis pharmacy agent returns an [unclaimed state central fill] undelivered medical~~  
 3029 ~~cannabis shipment [under Subsection (4)(b)] that remains unopened, the [state central fill]~~  
 3030 ~~home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment [for~~  
 3031 ~~another state central fill shipment].~~

3032 (b) If a ~~[local health department]~~ medical cannabis courier or home delivery medical  
 3033 cannabis pharmacy agent returns ~~[a returned state central fill]~~ an undelivered or refused  
 3034 medical cannabis shipment under Subsection [(4)(c)] (3) that appears to be opened in any way,  
 3035 the [state central fill] home delivery medical cannabis pharmacy shall dispose of the [returned]

3036 shipment by:  
 3037 (i) rendering the ~~[state central fill]~~ shipment unusable and unrecognizable before  
 3038 transporting the shipment from the ~~[state central fill]~~ home delivery medical cannabis  
 3039 pharmacy; and

3040 (ii) disposing of the ~~[state central fill]~~ shipment in accordance with:

3041 (A) federal and state laws, rules, and regulations related to hazardous waste;

3042 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

3043 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

3044 (D) other regulations that the department makes in accordance with Title 63G, Chapter  
 3045 3, Utah Administrative Rulemaking Act.

3046 Section 48. Section **26-61a-702** is amended to read:

3047 **26-61a-702. Enforcement -- Fine -- Citation.**

3048 (1) (a) The department may, for a medical cannabis pharmacy's violation of this chapter  
 3049 or an applicable administrative rule:

3050 (i) revoke the medical cannabis pharmacy license;

3051 (ii) refuse to renew the medical cannabis pharmacy license; or

3052 (iii) assess the medical cannabis pharmacy an administrative penalty.

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3053 (b) The department may, for a medical cannabis pharmacy agent's or [~~state central fill~~]  
3054 medical cannabis courier agent's violation of this chapter:

3055 (i) revoke the medical cannabis pharmacy agent or [~~state central fill~~] medical cannabis  
3056 courier agent registration card;

3057 (ii) refuse to renew the medical cannabis pharmacy agent or [~~state central fill~~] medical  
3058 cannabis courier agent registration card; or

3059 (iii) assess the medical cannabis pharmacy agent or [~~state central fill~~] medical cannabis  
3060 courier agent an administrative penalty.

3061 (2) The department shall deposit an administrative penalty imposed under this section  
3062 into the General Fund.

3063 (3) For a person subject to an uncontested citation, a stipulated settlement, or a finding  
3064 of a violation in an adjudicative proceeding under this section, the department may:

3065 (a) for a fine amount not already specified in law, assess the person a fine of up to  
3066 \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule  
3067 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

3068 (b) order the person to cease and desist from the action that creates a violation.

3069 (4) The department may not revoke a medical cannabis pharmacy's license or a medical  
3070 cannabis courier's license without first directing the medical cannabis pharmacy or a medical  
3071 cannabis courier's license to appear before an adjudicative proceeding conducted under Title  
3072 63G, Chapter 4, Administrative Procedures Act.

3073 (5) If, within 20 calendar days after the day on which the department issues a citation  
3074 for a violation of this chapter, the person that is the subject of the citation fails to request a  
3075 hearing to contest the citation, the citation becomes the department's final order.

3076 (6) The department may, for a person who fails to comply with a citation under this  
3077 section:

3078 (a) refuse to issue or renew the person's license or agent registration card; or

3079 (b) suspend, revoke, or place on probation the person's license or agent registration

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3080 card.

3081 (7) (a) Except where a criminal penalty is expressly provided for a specific violation of  
3082 this chapter, if an individual violates a provision of this chapter, the individual is:

3083 (i) guilty of an infraction; and

3084 (ii) subject to a \$100 fine.

3085 (b) An individual who is guilty of a violation described in Subsection (7)(a) is not  
3086 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct  
3087 underlying the violation described in Subsection (7)(a).

3088 Section 49. Section **26-61a-703** is amended to read:

3089 **26-61a-703. Report.**

3090 (1) By the November interim meeting each year beginning in 2020, the department  
3091 shall report to the Health and Human Services Interim Committee on:

3092 (a) the number of applications and renewal applications filed for medical cannabis  
3093 cards;

3094 (b) the number of qualifying patients and designated caregivers;

3095 (c) the nature of the debilitating medical conditions of the qualifying patients;

3096 (d) the age and county of residence of cardholders;

3097 (e) the number of medical cannabis cards revoked;

3098 (f) the number of practitioners providing recommendations for qualifying patients;

3099 (g) the number of license applications and renewal license applications received;

3100 (h) the number of licenses the department has issued in each county;

3101 (i) the number of licenses the department has revoked;

3102 (j) the quantity ~~[and timeliness of state central fill]~~ of medical cannabis shipments;  
3103 ~~including the amount of time between recommendation to~~ that the state central ~~[fill medical~~  
3104 ~~cannabis pharmacy and arrival of a state central fill shipment at a local health department]~~  
3105 patient portal facilitates;

3106 ~~[(k) the market share of state central fill shipments;]~~

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3107 (k) the number of overall purchases of medical cannabis and medical cannabis products  
3108 from each medical cannabis pharmacy;

3109 (l) the expenses incurred and revenues generated from the medical cannabis program;  
3110 and

3111 ~~[(m) the expenses incurred and revenues generated from the state central fill medical~~  
3112 ~~cannabis pharmacy, including a profit and loss statement; and]~~

3113 ~~[(n)]~~ (m) an analysis of product availability~~[-including the price differential between~~  
3114 ~~comparable products,] in medical cannabis pharmacies [and the state central fill medical~~  
3115 ~~cannabis pharmacy].~~

3116 (2) The department may not include personally identifying information in the report  
3117 described in this section.

3118 Section 50. Section **30-3-10** is amended to read:

3119 **30-3-10. Custody of a child -- Custody factors.**

3120 (1) If a married couple having one or more minor children are separated, or the married  
3121 couple's marriage is declared void or dissolved, the court shall enter, and has continuing  
3122 jurisdiction to modify, an order of custody and parent-time.

3123 (2) In determining any form of custody and parent-time under Subsection (1), the court  
3124 shall consider the best interest of the child and may consider among other factors the court  
3125 finds relevant, the following for each parent:

3126 (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional  
3127 abuse, involving the child, the parent, or a household member of the parent;

3128 (b) the parent's demonstrated understanding of, responsiveness to, and ability to meet  
3129 the developmental needs of the child, including the child's:

3130 (i) physical needs;

3131 (ii) emotional needs;

3132 (iii) educational needs;

3133 (iv) medical needs; and

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3134 (v) any special needs;

3135 (c) the parent's capacity and willingness to function as a parent, including:

3136 (i) parenting skills;

3137 (ii) co-parenting skills, including:

3138 (A) ability to appropriately communicate with the other parent;

3139 (B) ability to encourage the sharing of love and affection; and

3140 (C) willingness to allow frequent and continuous contact between the child and the

3141 other parent, except that, if the court determines that the parent is acting to protect the child

3142 from domestic violence, neglect, or abuse, the parent's protective actions may be taken into

3143 consideration; and

3144 (iii) ability to provide personal care rather than surrogate care;

3145 (d) in accordance with Subsection (10), the past conduct and demonstrated moral

3146 character of the parent;

3147 (e) the emotional stability of the parent;

3148 (f) the parent's inability to function as a parent because of drug abuse, excessive

3149 drinking, or other causes;

3150 (g) whether the parent has intentionally exposed the child to pornography or material

3151 harmful to minors, as "material" and "harmful to minors" are defined in Section [76-10-1201](#);

3152 (h) the parent's reasons for having relinquished custody or parent-time in the past;

3153 (i) duration and depth of desire for custody or parent-time;

3154 (j) the parent's religious compatibility with the child;

3155 (k) the parent's financial responsibility;

3156 (l) the child's interaction and relationship with step-parents, extended family members

3157 of other individuals who may significantly affect the child's best interests;

3158 (m) who has been the primary caretaker of the child;

3159 (n) previous parenting arrangements in which the child has been happy and

3160 well-adjusted in the home, school, and community;



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- 3161 (o) the relative benefit of keeping siblings together;
- 3162 (p) the stated wishes and concerns of the child, taking into consideration the child's
- 3163 cognitive ability and emotional maturity;
- 3164 (q) the relative strength of the child's bond with the parent, meaning the depth, quality,
- 3165 and nature of the relationship between the parent and the child; and
- 3166 (r) any other factor the court finds relevant.
- 3167 (3) There is a rebuttable presumption that joint legal custody, as defined in Section
- 3168 30-3-10.1, is in the best interest of the child, except in cases when there is:
- 3169 (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional
- 3170 abuse involving the child, a parent, or a household member of the parent;
- 3171 (b) special physical or mental needs of a parent or child, making joint legal custody
- 3172 unreasonable;
- 3173 (c) physical distance between the residences of the parents, making joint decision
- 3174 making impractical in certain circumstances; or
- 3175 (d) any other factor the court considers relevant including those listed in this section
- 3176 and Section 30-3-10.2.
- 3177 (4) (a) The person who desires joint legal custody shall file a proposed parenting plan
- 3178 in accordance with Sections 30-3-10.8 and 30-3-10.9.
- 3179 (b) A presumption for joint legal custody may be rebutted by a showing by a
- 3180 preponderance of the evidence that it is not in the best interest of the child.
- 3181 (5) (a) A child may not be required by either party to testify unless the trier of fact
- 3182 determines that extenuating circumstances exist that would necessitate the testimony of the
- 3183 child be heard and there is no other reasonable method to present the child's testimony.
- 3184 (b) (i) The court may inquire of the child's and take into consideration the child's
- 3185 desires regarding future custody or parent-time schedules, but the expressed desires are not
- 3186 controlling and the court may determine the child's custody or parent-time otherwise.
- 3187 (ii) The desires of a child 14 years of age or older shall be given added weight, but is

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3188 not the single controlling factor.

3189 (c) (i) If an interview with a child is conducted by the court pursuant to Subsection  
3190 (5)(b), the interview shall be conducted by the judge in camera.

3191 (ii) The prior consent of the parties may be obtained but is not necessary if the court  
3192 finds that an interview with a child is the only method to ascertain the child's desires regarding  
3193 custody.

3194 (6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a  
3195 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining  
3196 whether a substantial change has occurred for the purpose of modifying an award of custody.

3197 (b) The court may not consider the disability of a parent as a factor in awarding custody  
3198 or modifying an award of custody based on a determination of a substantial change in  
3199 circumstances, unless the court makes specific findings that:

3200 (i) the disability significantly or substantially inhibits the parent's ability to provide for  
3201 the physical and emotional needs of the child at issue; and

3202 (ii) the parent with a disability lacks sufficient human, monetary, or other resources  
3203 available to supplement the parent's ability to provide for the physical and emotional needs of  
3204 the child at issue.

3205 (c) Nothing in this section may be construed to apply to adoption proceedings under  
3206 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

3207 (7) This section does not establish a preference for either parent solely because of the  
3208 gender of the parent.

3209 (8) This section establishes neither a preference nor a presumption for or against joint  
3210 physical custody or sole physical custody, but allows the court and the family the widest  
3211 discretion to choose a parenting plan that is in the best interest of the child.

3212 (9) When an issue before the court involves custodial responsibility in the event of a  
3213 deployment of one or both parents who are servicemembers, and the servicemember has not yet  
3214 been notified of deployment, the court shall resolve the issue based on the standards in Sections

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3215 78B-20-306 through 78B-20-309.

3216 (10) In considering the past conduct and demonstrated moral standards of each party  
3217 under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

3218 (a) consider or treat a parent's lawful possession or use of cannabis in a medicinal  
3219 dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in  
3220 accordance with Title 4, Chapter 41a, Cannabis Production Establishments, Title 26, Chapter  
3221 61a, Utah Medical Cannabis Act, or Subsection 58-37-3.7(2) or (3) any differently than the  
3222 court would consider or treat the lawful possession or use of ~~[an opioid or opiate]~~ any  
3223 prescribed controlled substance; or

3224 (b) discriminate against a parent because of the parent's status as a:

3225 (i) cannabis production establishment agent, as that term is defined in Section  
3226 4-41a-102;

3227 (ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

3228 (iii) ~~[state central fill]~~ medical cannabis courier agent, as that term is defined in Section  
3229 26-61a-102; or

3230 (iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah  
3231 Medical Cannabis Act.

3232 Section 51. Section 58-17b-302 is amended to read:

3233 **58-17b-302. License required -- License classifications for pharmacy facilities.**

3234 (1) A license is required to act as a pharmacy, except:

3235 (a) as specifically exempted from licensure under Section 58-1-307; and

3236 (b) for the operation of a medical cannabis pharmacy ~~[or the state central fill medical~~  
3237 ~~cannabis pharmacy]~~ under Title 26, Chapter 61a, Utah Medical Cannabis Act.

3238 (2) The division shall issue a pharmacy license to a facility that qualifies under this  
3239 chapter in the classification of a:

3240 (a) class A pharmacy;

3241 (b) class B pharmacy;

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3242 (c) class C pharmacy;

3243 (d) class D pharmacy;

3244 (e) class E pharmacy; or

3245 (f) dispensing medical practitioner clinic pharmacy.

3246 (3) (a) Each place of business shall require a separate license.

3247 (b) If multiple pharmacies exist at the same address, a separate license shall be required  
3248 for each pharmacy.

3249 (4) (a) The division may further define or supplement the classifications of pharmacies.

3250 (b) The division may impose restrictions upon classifications to protect the public  
3251 health, safety, and welfare.

3252 (5) Each pharmacy~~[-, including the state central fill medical cannabis pharmacy,]~~ shall  
3253 have a pharmacist-in-charge, except as otherwise provided by rule.

3254 (6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy,  
3255 the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities  
3256 of the pharmacy, regardless of the form of the business organization.

3257 Section 52. Section **58-17b-310** is amended to read:

3258 **58-17b-310. Continuing education.**

3259 (1) The division in collaboration with the board may establish by rule continuing  
3260 education requirements for each classification of licensure under this chapter.

3261 (2) The division shall accept and apply toward an hour requirement that the division  
3262 establishes under Subsection (1) continuing education that a pharmacist completes in  
3263 accordance with ~~[Sections]~~ Section 26-61a-403 ~~[and 26-61a-601]~~.

3264 Section 53. Section **58-17b-502** is amended to read:

3265 **58-17b-502. Unprofessional conduct.**

3266 (1) "Unprofessional conduct" includes:

3267 (a) willfully deceiving or attempting to deceive the division, the board, or their agents  
3268 as to any relevant matter regarding compliance under this chapter;

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3269 (b) except as provided in Subsection (2):  
3270 (i) paying or offering rebates to practitioners or any other health care providers, or  
3271 receiving or soliciting rebates from practitioners or any other health care provider; or  
3272 (ii) paying, offering, receiving, or soliciting compensation in the form of a commission,  
3273 bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care  
3274 provider, for the purpose of obtaining referrals;  
3275 (c) misbranding or adulteration of any drug or device or the sale, distribution, or  
3276 dispensing of any outdated, misbranded, or adulterated drug or device;  
3277 (d) engaging in the sale or purchase of drugs or devices that are samples or packages  
3278 bearing the inscription "sample" or "not for resale" or similar words or phrases;  
3279 (e) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug  
3280 Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has  
3281 left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section  
3282 58-17b-503, or the manufacturer's sealed container, as defined in rule;  
3283 (f) an act in violation of this chapter committed by a person for any form of  
3284 compensation if the act is incidental to the person's professional activities, including the  
3285 activities of a pharmacist, pharmacy intern, or pharmacy technician;  
3286 (g) violating:  
3287 (i) the federal Controlled Substances Act, Title II, P.L. 91-513;  
3288 (ii) Title 58, Chapter 37, Utah Controlled Substances Act; or  
3289 (iii) rules or regulations adopted under either act;  
3290 (h) requiring or permitting pharmacy interns or technicians to engage in activities  
3291 outside the scope of practice for their respective license classifications, as defined in this  
3292 chapter and division rules made in collaboration with the board, or beyond their scope of  
3293 training and ability;  
3294 (i) administering:  
3295 (i) without appropriate training, as defined by rule;

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3296 (ii) without a physician's order, when one is required by law; and  
 3297 (iii) in conflict with a practitioner's written guidelines or written protocol for  
 3298 administering;

3299 (j) disclosing confidential patient information in violation of the provisions of the  
 3300 Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat.  
 3301 1936, as amended, or other applicable law;

3302 (k) engaging in the practice of pharmacy without a licensed pharmacist designated as  
 3303 the pharmacist-in-charge;

3304 (l) failing to report to the division any adverse action taken by another licensing  
 3305 jurisdiction, government agency, law enforcement agency, or court for conduct that in  
 3306 substance would be considered unprofessional conduct under this section;

3307 (m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage  
 3308 form which is regularly and commonly available from a manufacturer in quantities and  
 3309 strengths prescribed by a practitioner;

3310 (n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act,  
 3311 when dispensing a self-administered hormonal contraceptive under a standing order; and

3312 (o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

3313 (2) Subsection (1)(b) does not apply to:

3314 (a) giving or receiving a price discount based on purchase volume;  
 3315 (b) passing along a pharmaceutical manufacturer's rebate; or  
 3316 (c) providing compensation for services to a veterinarian.

3317 (3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter  
 3318 61a, Utah Medical Cannabis Act:

3319 (a) when registered as a pharmacy medical provider, as that term is defined in Section  
 3320 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or  
 3321 (b) when ~~registered~~ acting as a state central ~~fhf~~ patient portal medical provider, as  
 3322 that term is defined in Section 26-61a-102, providing state central ~~fhf~~ patient portal medical



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3323 provider services [~~in the state central fill medical cannabis pharmacy~~].

3324 (4) Notwithstanding Subsection (3), the division, in consultation with the board and in  
3325 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define  
3326 unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

3327 Section 54. Section ~~58-37-3.7~~ is amended to read:

3328 **58-37-3.7. Medical cannabis decriminalization.**

3329 (1) As used in this section:

3330 (a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

3331 (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

3332 (c) "Medical cannabis card" means the same as that term is defined in Section  
3333 26-61a-102.

3334 (d) "Medical cannabis device" means the same as that term is defined in Section  
3335 26-61a-102.

3336 (e) "Medical cannabis pharmacy" means the same as that term is defined in Section  
3337 26-61a-102.

3338 (f) "Medicinal dosage form" means the same as that term is defined in Section  
3339 26-61a-102.

3340 (g) "Qualified medical provider" means the same as that term is defined in Section  
3341 26-61a-102.

3342 (h) "Qualifying condition" means the same as that term is defined in Section  
3343 26-61a-102.

3344 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section  
3345 58-37-3.9.

3346 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or  
3347 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

3348 (a) at the time of the arrest or citation, the individual:

3349 (i) (A) had been diagnosed with a qualifying condition; and

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(B) had a pre-existing provider-patient relationship with an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness described in Subsection (2)(a)(i)(A) could benefit from the use in question;

(ii) for possession, was:

(A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who is a minor; or

(B) the spouse of an individual described in Subsection (2)(a)(i); or

(iii) (A) for possession, was a medical cannabis cardholder; or

(B) for use, was a medical cannabis patient cardholder or a minor with a qualifying condition under the supervision of a medical cannabis guardian cardholder; and

(b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in one of the following amounts:

(i) no more than 56 grams by weight of unprocessed cannabis; or

(ii) an amount of cannabis products that contains, in total, no more than 10 grams of total composite tetrahydrocannabinol.

(3) An individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

(a) at the time of the arrest or citation, the individual:

(i) was not a resident of Utah or has been a resident of Utah for less than 45 days;

(ii) had a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(iii) had been diagnosed with a qualifying condition as described in Section 26-61a-104; and

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(b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in ~~[a quantity described in Subsection 26-61a-502(2)]~~ one of the following amounts:

- (i) no more than 113 grams by weight of unprocessed cannabis; or
- (ii) an amount of cannabis products that contains, in total, no more than 20 grams of total composite tetrahydrocannabinol.

Section 55. Section **58-37-3.8** is amended to read:

**58-37-3.8. Enforcement.**

(1) A law enforcement officer, as that term is defined in Section **53-13-103**, except for an officially designated drug enforcement task force regarding conduct that is not in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, may not expend any state or local resources, including the officer's time, to:

(a) effect any arrest or seizure of cannabis, as that term is defined in Section **26-61a-102**, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that the activity is in compliance with the state medical cannabis laws;

(b) enforce a law that restricts an individual's right to acquire, own, or possess a firearm based solely on the individual's possession or use of cannabis in accordance with state medical cannabis laws; or

(c) provide any information or logistical support related to an activity described in Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

(2) An agency or political subdivision of the state may not take an adverse action against a person for providing a professional service to a medical cannabis pharmacy, as that term is defined in Section **26-61a-102**, the state central ~~[fill medical cannabis pharmacy]~~ patient portal, as that term is defined in Section **26-61a-102**, or a cannabis production establishment, as that term is defined in Section **4-41a-102**, on the sole basis that the service is a violation of federal law.

Section 56. Section **58-37-3.9** is amended to read:

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**58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.**

(1) As used in this section:

(a) "Cannabis" means marijuana.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(d) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(f) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual is not guilty of a violation of this title for the following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing, selling, or offering to sell cannabis or a cannabis product; or

(ii) possessing cannabis or a cannabis product with the intent to engage in the conduct described in Subsection (2)(a)(i); and

(b) an individual is not guilty of a violation of this title regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, and Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis

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3431 device; or

3432 (ii) possesses a medical cannabis device with the intent to engage in any of the conduct  
3433 described in Subsection (2)(b)(i).

3434 (3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or  
3435 heating of medical cannabis.

3436 (b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical  
3437 cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking  
3438 or combustion of cannabis.

3439 (c) A medical cannabis cardholder who smokes cannabis or engages in any other  
3440 conduct described in Subsection (3)(b):

3441 (i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah  
3442 Medical Cannabis Act; and

3443 (ii) is subject to charges under this chapter for the use or possession of marijuana,  
3444 tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection  
3445 (3)(b).

3446 (4) An individual who is assessed a penalty or convicted of a crime under Title 4,  
3447 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical  
3448 Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a  
3449 penalty described in this chapter for:

3450 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis  
3451 product; or

3452 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

3453 Section 57. Section **58-67-304** is amended to read:

3454 **58-67-304. License renewal requirements.**

3455 (1) As a condition precedent for license renewal, each licensee shall, during each  
3456 two-year licensure cycle or other cycle defined by division rule:

3457 (a) complete qualified continuing professional education requirements in accordance

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with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(j);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this



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3485 chapter, inform the Department of Health in writing:

3486 (a) of the name and business address of the physician; and

3487 (b) that the physician responded positively to the question described in Subsection

3488 (3)(a).

3489 (5) The division shall accept and apply toward the hour requirement in Subsection

3490 (1)(a) any continuing education that a physician completes in accordance with Sections

3491 26-61a-106, 26-61a-403, and [~~26-61a-601~~] 26-61a-602.

3492 Section 58. Section **58-67-502** is amended to read:

3493 **58-67-502. Unprofessional conduct.**

3494 (1) "Unprofessional conduct" includes, in addition to the definition in Section

3495 58-1-501:

3496 (a) using or employing the services of any individual to assist a licensee in any manner

3497 not in accordance with the generally recognized practices, standards, or ethics of the

3498 profession, state law, or division rule;

3499 (b) making a material misrepresentation regarding the qualifications for licensure under

3500 Section 58-67-302.7 or Section 58-67-302.8;

3501 (c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical

3502 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; or

3503 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

3504 (2) "Unprofessional conduct" does not include:

3505 (a) in compliance with Section 58-85-103:

3506 (i) obtaining an investigational drug or investigational device;

3507 (ii) administering the investigational drug to an eligible patient; or

3508 (iii) treating an eligible patient with the investigational drug or investigational device;

3509 or

3510 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

3511 (i) when registered as a qualified medical provider, as that term is defined in Section

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3512 26-61a-102, recommending the use of medical cannabis;

3513 (ii) when registered as a pharmacy medical provider, as that term is defined in Section  
3514 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

3515 (iii) when registered as a state central ~~[fhh]~~ patient portal medical provider, as that term  
3516 is defined in Section 26-61a-102, providing state central ~~[fhh]~~ patient portal medical provider  
3517 services ~~[in the state central fill medical cannabis pharmacy]~~.

3518 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and  
3519 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define  
3520 unprofessional conduct for a ~~[pharmacist]~~ physician described in Subsection (2)(b).

3521 Section 59. Section 58-68-304 is amended to read:

3522 **58-68-304. License renewal requirements.**

3523 (1) As a condition precedent for license renewal, each licensee shall, during each  
3524 two-year licensure cycle or other cycle defined by division rule:

3525 (a) complete qualified continuing professional education requirements in accordance  
3526 with the number of hours and standards defined by division rule in collaboration with the  
3527 board;

3528 (b) appoint a contact person for access to medical records and an alternate contact  
3529 person for access to medical records in accordance with Subsection 58-68-302(1)(j);

3530 (c) if the licensee practices osteopathic medicine in a location with no other persons  
3531 licensed under this chapter, provide some method of notice to the licensee's patients of the  
3532 identity and location of the contact person and alternate contact person for access to medical  
3533 records for the licensee in accordance with Subsection 58-68-302(1)(k); and

3534 (d) if the licensee is an associate physician licensed under Section 58-68-302.5,  
3535 successfully complete the educational methods and programs described in Subsection  
3536 58-68-807(4).

3537 (2) If a renewal period is extended or shortened under Section 58-68-303, the  
3538 continuing education hours required for license renewal under this section are increased or

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3539 decreased proportionally.

3540 (3) An application to renew a license under this chapter shall:

3541 (a) require a physician to answer the following question: "Do you perform elective  
3542 abortions in Utah in a location other than a hospital?"; and

3543 (b) immediately following the question, contain the following statement: "For purposes  
3544 of the immediately preceding question, elective abortion means an abortion other than one of  
3545 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is  
3546 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of  
3547 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a  
3548 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where  
3549 the woman is pregnant as a result of rape or incest."

3550 (4) In order to assist the Department of Health in fulfilling its responsibilities relating  
3551 to the licensing of an abortion clinic, if a physician responds positively to the question  
3552 described in Subsection (3)(a), the division shall, within 30 days after the day on which it  
3553 renews the physician's license under this chapter, inform the Department of Health in writing:

3554 (a) of the name and business address of the physician; and

3555 (b) that the physician responded positively to the question described in Subsection  
3556 (3)(a).

3557 (5) The division shall accept and apply toward the hour requirement in Subsection  
3558 (1)(a) any continuing education that a physician completes in accordance with Sections  
3559 [26-61a-106](#), [26-61a-403](#), and [~~[26-61a-601](#)~~] [26-61a-602](#).

3560 Section 60. Section **58-68-502** is amended to read:

3561 **58-68-502. Unprofessional conduct.**

3562 (1) "Unprofessional conduct" includes, in addition to the definition in Section  
3563 [58-1-501](#):

3564 (a) using or employing the services of any individual to assist a licensee in any manner  
3565 not in accordance with the generally recognized practices, standards, or ethics of the

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3566 profession, state law, or division rule;

3567 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical  
3568 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

3569 (c) making a material misrepresentation regarding the qualifications for licensure under  
3570 Section 58-68-302.5; or

3571 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

3572 (2) "Unprofessional conduct" does not include:

3573 (a) in compliance with Section 58-85-103:

3574 (i) obtaining an investigational drug or investigational device;

3575 (ii) administering the investigational drug to an eligible patient; or

3576 (iii) treating an eligible patient with the investigational drug or investigational device;

3577 or

3578 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

3579 (i) when registered as a qualified medical provider, as that term is defined in Section

3580 26-61a-102, recommending the use of medical cannabis;

3581 (ii) when registered as a pharmacy medical provider, as that term is defined in Section

3582 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

3583 (iii) when registered as a state central ~~[fill]~~ patient portal medical provider, as that term

3584 is defined in Section 26-61a-102, providing state central ~~[fill]~~ patient portal medical provider

3585 services ~~[in the state central fill medical cannabis pharmacy]~~.

3586 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and

3587 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define

3588 unprofessional conduct for a ~~[pharmacist]~~ physician described in Subsection (2)(b).

3589 Section 61. Section 59-12-104.10 is amended to read:

3590 **59-12-104.10. Exemption from sales tax for cannabis.**

3591 (1) As used in this section:

3592 (a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

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3593 (b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

3594 (c) "Medical cannabis device" means the same as that term is defined in Section  
3595 [26-61a-102](#).

3596 (d) "Medical cannabis pharmacy" means the same as that term is defined in Section  
3597 [26-61a-102](#).

3598 (e) "Medicinal dosage form" means the same as that term is defined in Section  
3599 [26-61a-102](#).

3600 ~~[(f) "State central fill medical cannabis pharmacy" means the same as that term is~~  
3601 ~~defined in Section [26-61a-102](#).]~~

3602 (2) In addition to the exemptions described in Section [59-12-104](#), the sale by a licensed  
3603 medical cannabis pharmacy ~~[or the state central fill medical cannabis pharmacy]~~ of the  
3604 following is not subject to the taxes this chapter imposes:

3605 (a) cannabis in a medicinal dosage form; or

3606 (b) a cannabis product in a medicinal dosage form.

3607 (3) The sale of a medical cannabis device by a medical cannabis pharmacy ~~[or the state~~  
3608 ~~central fill medical cannabis pharmacy]~~ is subject to the taxes this chapter imposes.

3609 Section 62. Section **78A-2-231** is enacted to read:

3610 **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

3611 (1) As used in this section:

3612 (a) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

3613 (b) "Dosing parameters" means the same as that term is defined in Section [26-61a-102](#).

3614 (c) "Medical cannabis" means the same as that term is defined in Section [26-61a-102](#).

3615 (d) "Medical cannabis card" means the same as that term is defined in Section  
3616 [26-61a-102](#).

3617 (e) "Medical cannabis device" means the same as that term is defined in Section  
3618 [26-61a-102](#).

3619 (f) "Qualified medical provider" means the same as that term is defined in Section

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3620 26-61a-102.

3621 (2) In any judicial proceeding in which a judge, panel, jury, or court commissioner  
 3622 makes a finding, determination, or otherwise considers an individual's possession or use of  
 3623 medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or  
 3624 court commissioner may not consider or treat the individual's possession or use any differently  
 3625 than the lawful possession or use of any prescribed controlled substance if:

3626 (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production  
 3627 Establishments;

3628 (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

3629 (c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah  
 3630 Medical Cannabis Act; and

3631 (ii) the individual reasonably complies with the dosing parameters determined by the  
 3632 individual's qualified medical provider or through a consultation described in Subsection  
 3633 26-61a-502(4) or (5).

3634 (3) Notwithstanding Sections 77-18-1 and 77-2a-3, for probation, release, a plea in  
 3635 abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of  
 3636 Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain  
 3637 from the use or possession of medical cannabis, a cannabis product, or a medical cannabis  
 3638 device, either directly or through a general prohibition on violating federal law, without an  
 3639 exception related to medical cannabis use, if the individual's use or possession complies with:

3640 (a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

3641 (b) Subsection 58-37-3.7(2) or (3).

3642 Section 63. Section **78A-6-115** is amended to read:

3643 **78A-6-115. Hearings -- Record -- County attorney or district attorney**  
 3644 **responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of**  
 3645 **evidence -- Medical cannabis.**

3646 (1) (a) A verbatim record of the proceedings shall be taken in all cases that might result



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in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed with by the court.

(b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, a record of a proceeding made under Subsection (1)(a) shall be released by the court to any person upon a finding on the record for good cause.

(ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:

(A) provide notice to all subjects of the record that a request for release of the record has been made; and

(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

(iii) A record of a proceeding may not be released under this Subsection (1)(b) if the court's jurisdiction over the subjects of the proceeding ended more than 12 months before the request.

(iv) For purposes of this Subsection (1)(b):

(A) "record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a); and

(B) "subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.

(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.

(b) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and Family Services, and this chapter, relating to:

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(i) protection or custody of an abused, neglected, or dependent child; and

(ii) petitions for termination of parental rights.

(c) The attorney general shall represent the Division of Child and Family Services in actions involving a minor who is not adjudicated as abused or neglected, but who is receiving in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be construed to affect the responsibility of the county attorney or district attorney to represent the state in those matters, in accordance with Subsection (2)(a).

(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.

(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the person who wrote the report or prepared the material appear as a witness if the person is reasonably available.

(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any person who participated in preparing the dispositional report to appear as a witness, if the person is reasonably available.

(5) (a) In an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:

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3701 (i) plans to report to the court at the proceeding; or  
3702 (ii) could reasonably expect would be requested of the party by the court at the  
3703 proceeding.

3704 (b) The disclosure required under Subsection (5)(a) shall be made:  
3705 (i) for dispositional hearings under Sections [78A-6-311](#) and [78A-6-312](#), no less than  
3706 five days before the proceeding;  
3707 (ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in  
3708 accordance with Utah Rules of Civil Procedure; and  
3709 (iii) for all other proceedings, no less than five days before the proceeding.

3710 (c) If a party to a proceeding obtains information after the deadline in Subsection  
3711 (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the  
3712 party certifies to the court that the information was obtained after the deadline.

3713 (d) Subsection (5)(a) does not apply to:  
3714 (i) pretrial hearings; and  
3715 (ii) the frequent, periodic review hearings held in a dependency drug court case to  
3716 assess and promote the parent's progress in substance use disorder treatment.

3717 (6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court  
3718 may, in its discretion, consider evidence of statements made by a child under eight years of age  
3719 to a person in a trust relationship.

3720 (7) (a) As used in this Subsection (7):

3721 (i) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).  
3722 (ii) "Dosing parameters" means the same as that term is defined in Section [26-61a-102](#).  
3723 (iii) "Medical cannabis" means the same as that term is defined in Section [26-61a-102](#).  
3724 (iv) "Medical cannabis cardholder" means the same as that term is defined in Section  
3725 [26-61a-102](#).

3726 (v) "Qualified medical provider" means the same as that term is defined in Section  
3727 [26-61a-102](#).

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(b) In any child welfare proceeding in which the court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if the individual's use or possession complies with:

(i) Title 4, Chapter 41a, Cannabis Production Establishments;

(ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(B) the individual reasonably complies with the dosing parameters determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(c) A parent's or guardian's use of medical cannabis or a cannabis product is not abuse or neglect of a child under Section 78A-6-105, nor is it contrary to the best interests of a child, if:

(i) (A) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the dosing parameters determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(B) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3); and

(ii) (A) there is no evidence showing that the child has inhaled, ingested, or otherwise had cannabis introduced to the child's body; or

(B) there is no evidence showing a nexus between the parent's or guardian's use of medical cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

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3755 Section 64. **Repealer.**

3756 This bill repeals:

3757 Section **26-61a-110**, **Qualified Distribution Enterprise Fund -- Creation.**

3758 Section **26-61a-205**, **Lost or stolen medical cannabis card.**

3759 Section **26-61a-608**, **Department to set state central fill medical cannabis pharmacy**  
3760 **prices.**

3761 Section **26-61a-609**, **Partial filling.**

3762 Section **26-61a-610**, **Records -- Inspections.**

3763 Section **26-61a-611**, **Advertising.**

3764 Section **26-65-101**, **Title.**

3765 Section **26-65-102**, **Definitions.**

3766 Section **26-65-103**, **Medicinal dosage form.**

3767 Section **26-65-201**, **Insurance coverage.**

3768 Section **26-65-202**, **Rules -- Report to the Legislature.**

3769 Section 65. **Effective date.**

3770 If approved by two-thirds of all the members elected to each house, this bill takes effect

3771 upon approval by the governor, or the day following the constitutional time limit of Utah

3772 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,

3773 the date of veto override.

3774 Section 66. **Revisor instructions.**

3775 The Legislature intends that the Office of Legislative Research and General Counsel, in

3776 preparing the Utah Code database for publication, in Section **4-41a-201**, replace the language

3777 from "the effective date of this bill" to the bill's actual effective date.